

117

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR No. 5507 of 2018 (O&M)
Date of Decision: 24.08.2018

Vinod Verma

....Petitioner

Vs

State of Punjab and others

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Naveen Bawa, Advocate,
for the petitioner.

RAJ MOHAN SINGH, J.(Oral)

1. Challenge is to the order dated 02.08.2018 passed by Additional District Judge, Ludhiana vide which application for additional evidence was dismissed.
2. Evidently, the plaintiff sought to adduce evidence in rebuttal in respect of an issue, the onus of which was on the plaintiff himself. Plaintiff has already concluded his evidence and the evidence of the defendants was also closed.
3. At the stage of rebuttal and arguments, the application was filed for leading evidence in the form of additional evidence. Plaintiff could not lead evidence in affirmative nor he has reserved any right to lead evidence in rebuttal.

4. In view of laid down in **Surjit Singh and others vs. Jagtar Singh and others, 2007(1) RCR (Civil) P&H 537 (DB); Jagdev Singh and others vs. Darshan Singh and others, 2007(1) RCR (Civil) 794 (DB)** and **Avtar Singh vs. Baldev Singh, 2015(1) PLR 230 (DB)**, the plaintiff cannot be allowed to lead evidence in rebuttal in respect of an issue, the onus of which was on the plaintiff himself. No such right to lead evidence in rebuttal was reserved at the time of closing affirmative evidence by the plaintiff nor any rebuttal issue was framed. Plaintiff cannot lead evidence in rebuttal without reserving right of rebuttal.

5. In such eventuality, right to lead evidence in rebuttal would be forfeited in terms of Order 18 Rule 3 CPC. The plaintiff cannot lead evidence of such nature even by rebuttal under the garb of additional evidence.

6. For the reasons recorded hereinabove, I do not find any justification to interfere in the impugned order dated 02.08.2018 passed by Additional District Judge, Ludhiana.

7. This revision petition is accordingly, dismissed.

24.08.2018

Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No