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

CR No. 6693 of 2018

Date of Decision: 31.10.2018

Amarjit Singh

-Petitioner

Vs

Surinder Kaur and others

-Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Kanwal Goyal, Advocate,
for the petitioner.

RAJ MOHAN SINGH, J. (ORAL)

The point for consideration in the present revision petition is that whether plaintiff can be permitted to lead evidence in rebuttal in respect of an issue, the onus of which was on the plaintiff himself.

Plaintiff has filed a suit for declaration and permanent injunction on the basis of Will dated 16.07.1986 executed by Gajja Singh. The onus of issue No.1 was on the plaintiff himself. Issue No.1 is wide enough to cover the relief of declaration on the basis of Will.

Issues were framed in the year 2013. Thereafter, plaintiff concluded his evidence in the year 2017 by availing number of opportunities in the span of about 04 years.

According to learned counsel for the plaintiff-petitioner, plaintiff has led evidence to prove execution of Will in terms of Section 68/69 of the Evidence Act.

By means of application for examining Handwriting and Fingerprint Expert, plaintiff wants to prove signature appearing on the Will to be that of Gajja Singh. There is no issue of rebuttal in respect of Will framed by the Court. Defendants have taken plea of denial in the written statement. In the event of proving due execution of Will in accordance with law, onus will be shifted upon the defendants to prove plea of fraud if any taken by them by leading cogent evidence.

At this stage, on the strength of **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 issue i.e. issue No.1, the onus of which was on the plaintiff himself. Plaintiff cannot be allowed to enlarge the scope of issue No.1 at rebuttal stage particularly when there was no issue of rebuttal nor any right was reserved by the plaintiff for leading evidence in rebuttal.

I find no justification to interfere in the impugned order.

This revision petition is accordingly, dismissed.

31.10.2018

Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

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