

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

**Civil Revision No.7203 of 2018(O&M)
Date of Decision: 23.10.2018**

Subhash Chander @ Subhash Garg

.....Petitioner

Vs

Kartar Singh and others

....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Rajesh Bhatehja, Advocate
for the petitioner.

RAJ MOHAN SINGH, J. (Oral)

[1]. Petitioner has challenged the order dated 06.09.2018 passed by Civil Judge (Junior Division), Jagraon vide which application filed by the petitioner to summon the Secretary/concerned person along with record of Market Committee, Grain Market, Jagraon and Market Committee, Grain Market, Sidhwan Bet for leading evidence in rebuttal was dismissed.

[2]. Perusal of the record would show that issues were framed from the pleadings of the parties. Perusal of issues No.2 and 3 would show that onus to prove the aforesaid issues was

on the defendants and the issues were formal in nature regarding maintainability and limitation for filing the suit. None of the issues was framed which would have required leading of any evidence in rebuttal. The initial onus regarding maintainability of the suit was on the plaintiff. Defendants have denied the pleadings of the plaint and the documents were claimed to be forged and fabricated. The onus was on the plaintiff to prove the liability of the defendants and also to prove the maintainability of his claim by way of leading substantive evidence. Plaintiff has already closed his evidence in affirmative.

[3]. Since the defendants have denied the claim of the plaintiff in the written statement, therefore the plaintiff was under legal obligation to adduce evidence in affirmative in respect of an issue the onus of which was on the plaintiff himself.

[4]. It is a settled principle of law that the plaintiff cannot lead evidence in rebuttal in respect of an issue, the onus of which was on the plaintiff himself. Reference can be made to **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.**

[5]. There was no such issue which requires any rebuttal. No such issue was framed on which defendants have led any

fresh evidence which was not in the knowledge of the plaintiff.

There is no such requirement for which plaintiff can be permitted to lead evidence in rebuttal to the evidence led by the defendants.

[6]. In view of legal position as explained above, there is no error of jurisdiction in the impugned order dated 06.09.2018 passed by Civil Judge (Junior Division), Jagraon. This revision petition is found to be totally devoid of merits and the same is accordingly dismissed.

October 23, 2018

Prince

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No