

In the High Court of Punjab and Haryana at Chandigar

214

CR No. 7380 of 2014

Date of decision: 1.8.2018

Avdesh Kumar Pandey

.....Petitioner

Versus

Jagdish and ors

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Kunal Dawar, Advocate,
for the petitioner.

Mr.Rajesh Arora, Advocate
for the respondents.

RAJ MOHAN SINGH, J (oral)

Petitioner has assailed the order dated 17.10.2014 passed by Civil Judge (Jr.Divn.) Gurgaon, vide which application filed by the plaintiff for examining Handwriting and Finger Print Expert in rebuttal evidence was rejected.

Plaintiff-petitioner filed an amended suit for possession by way of specific performance. Defendant-respondent, in his written statement, has denied the execution of agreement to sell dated 28.6.2005. In view of denial projected by the defendant, the onus to prove issue No.1 was on the plaintiff. Issue No.1 was to the following effect:-

“ Whether the plaintiff is entitled to the relief of possession by way of specific performance ? OPP”

Plaintiff has not led any expert evidence in his

affirmative. Defendant has examined the handwriting and finger print expert, which has also been cross-examined by the plaintiff.

In view of ratio laid down in Surjit Singh and others vs. Jagtar Singh and others, 2007 (1) RCR (Civil) 537 DB; Jagdev Singh and others vs. Darshan Singh and others, 2007 (1) RCR (Civil) 794 and Avtar Singh vs. Baldev Singh, 2015 (1) PLR 230, plaintiff cannot be allowed to lead evidence in rebuttal in respect of an issue, the onus of which was upon him. The ratio of the aforesaid cases squarely applies to the present case as the plaintiff himself did not lead any evidence in affirmative despite a specific plea taken by the defendant in the written statement.

In view of above, I find no reason to differ with the conclusion arrived at by the trial Court while dismissing the application in question.

This revision petition is accordingly dismissed.

(RAJ MOHAN SINGH)
JUDGE

August 01, 2018

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Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No