

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

125

CR No.9135 of 2017 (O & M)
Date of Decision:12.01.2018

Narain Dass

...Petitioner

Versus

Atam Parkash

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Parveen Kumar Rohilla, Advocate
for the petitioner.

ANIL KSHETARPAL, J.(Oral)

Plaintiff-petitioner is in the revision petition against the order refusing permission to examine handwriting and finger-print expert in rebuttal.

It is well settled that permission to lead evidence in rebuttal is only restricted to the issues, onus whereof is on the defendant. The issues as culled out by the Courts as framed by the learned trial Court are extracted as under:-

“1. Whether the plaintiff is entitled to a decree for possession by way of specific performance of agreement to sell dated 06.11.1998 by way of execution and registration of sale deed of 1/4th share, as detailed in the headnote of the plaint?OPP.

2. Whether the plaintiff is entitled to a decree of permanent injunction restraining the defendant forever

from alienating or encumbering the same to anybody?

OPP.

3. Whether the suit is not maintainable in the present form? OPD.

4. Whether the plaintiff is estopped by his own acts and conduct to file the present suit? OPD.

5. Whether the plaintiff has no cause of action and locus standi to file the present suit? OPD.

6. Relief.”

A reading of the issues would show that onus to prove issue No.1 was on the plaintiff. The onus to prove issues No.3, 4 and 5 was on the defendant. It is not disputed before me that the evidence sought to be produced in rebuttal does not fall within the scope of issues No.3, 4 and 5.

In view thereof, there is no scope for interference.

Revision petition is dismissed.

12.01.2018
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No