

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.1570 of 2016(O&M)
Date of Decision: 01.11.2019

GURNAM KAUR & ORS.
VERSUS
BAL TIRATH SINGH

.....PETITIONERS
.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Rajinder Sharma, Advocate
for the petitioners.

Mr. K.S. Rekhi, Advocate
for the respondent.

RAJ MOHAN SINGH, J.(Oral)

[1]. This revision petition has been preferred against the order dated 17.02.2016 passed by Civil Judge (Junior Division), Ajnala, vide which application filed by the plaintiff for comparison of signatures of the defendants on agreement to sell dated 30.05.2006 with standard signature of the defendant was allowed.

[2]. Learned counsel for the petitioners stated that even though, specific issue was not framed in respect of entitlement of the plaintiff for specific performance on the basis of agreement to sell, but both the parties knew case of each other and have proceeded to lead evidence in the context of

execution of agreement to sell and readiness and willingness on behalf of the parties. The application for recasting of issues is still pending before the trial Court.

[3]. It is a settled principle of law that the plaintiff cannot be allowed to lead evidence 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 and another Vs. Baldev Singh and others, 2015 (5) RCR (Civil) 625.*

[4]. In view of aforesaid legal position, the plaintiff cannot be allowed to lead evidence in affirmative, particularly when there was no such rebuttal issue, nor any right was reserved by the plaintiff to lead his evidence in rebuttal while leading his evidence in affirmative.

[5]. For the reasons recorded hereinabove, I deem it appropriate to set aside the impugned order. This revision petition is accordingly allowed. Normal consequences to follow.

01.11.2019

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**(RAJ MOHAN SINGH)
JUDGE**

Whether reasoned/speaking Yes/No

Whether reportable Yes/No