

CR No.7452 of 2017
Date of Decision: 24.09.2019

Harpal Kaur

.....Petitioner

Versus

Harbhajan Kaur @ Harbahan Kaur

.....Respondent

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAURPresent: Mr. Sunny K.Singla, Advocate
for the petitioner.Mr. Mohd. Salim, Advocate
for the respondent.**NIRMALJIT KAUR, J. (ORAL)**

The present revision petition has been filed against the order dated 17.10.2017 passed by the Additional Civil Judge (Senior Division), Malerkotla (for short, the trial Court), vide which, the application of the petitioner to lead evidence in rebuttal, was rejected.

While praying for setting aside the said order, learned counsel for the petitioner submitted that the evidence sought to be produced in rebuttal falls within the scope of issue No.4, onus of which was upon the defendant, therefore, he had a right to lead evidence in rebuttal.

A perusal of the impugned order shows that the application of the petitioner was rejected on the ground that no handwriting expert was examined by the plaintiff in affirmative and therefore, the plaintiff cannot be granted any opportunity, after the defendant has examined handwriting expert in his own evidence.

Heard.

Firstly, the petitioner does not want to examine any

handwriting expert. As per the application, he had called for the witnesses

i.e. concerned Clerks of State Bank of Patiala (now merge State Bank of India) Branch Old Galla Mandi, Ahmedgarh and Main Branch, Ahmedgarh and concerned Clerk of Post Office, Maloudh, only to prove that the amount stands deposited in the account of the respondent. Therefore, wrong facts have been recorded in the impugned order. Secondly, the petitioner had closed his evidence in affirmative and he wanted to lead rebuttal evidence on the issue that was required to be proved by the defendant. Therefore, the petitioner, in the present circumstances, has a right to lead the rebuttal evidence.

In view of the above, the present revision petition is allowed and the order dated 17.10.2017 passed by the trial Court is set aside and the petitioner is allowed to lead the rebuttal evidence as prayed in the application dated 09.10.2017.

Allowed, as above.

(NIRMALJIT KAUR)
JUDGE

24.09.2019
sandeep

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