

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

**CR No.7891 of 2014(O&M)  
Date of Decision: 27.09.2019**

**Balbir Singh  
Versus  
Sarabjit Singh**

**....Petitioner  
....Respondent**

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

Present:Mr. N.K. Manchanda, Advocate  
for the petitioner.

None for the respondent.

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**RAJ MOHAN SINGH, J.(Oral)**

[1]. Petitioner has preferred this revision petition against the order dated 14.11.2014 passed by Civil Judge (Junior Division), Ferozepur, vide which application filed by the plaintiff for sending the documents to the Director Central Forensic Lab, Hyderabad and to examine handwriting expert in rebuttal was allowed.

[2]. Notice of motion was issued on 25.11.2014 by passing the following order:-

*“Learned counsel for the petitioner submits that though there is a total denial of the agreement in the written statement yet the plaintiff did not examine the handwriting and finger print expert in his evidence led in affirmative and has led the evidence in rebuttal.*

*Notice of motion for 16.12.2014.*

*In the meantime, the trial Court is directed to adjourn the case pending before it beyond the date given by this Court.”*

[3]. Thereafter, Mr. Y.K. Aneja, Advocate for Mr. S.K. Arora, Advocate appeared on behalf of the respondent and the case was adjourned to 13.02.2015 for arguments. Interim order was extended. On 10.03.2016, Mr. S.K. Arora, Advocate appeared and withdrew his memo of appearance. Thereafter, Mr. Vishal Sharma, Advocate appeared on behalf of the respondent on 05.04.2019 and sought time to address arguments.

[4]. Perusal of the record would show that the application for leading expert evidence was filed by the plaintiff at the rebuttal stage. Defendant/petitioner has specifically taken stand of total denial of the agreement in the written statement. Plaintiff did not examine any handwriting and fingerprint expert in his affirmative evidence.

[5]. In view of **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**, the plaintiff cannot lead evidence in rebuttal in respect of an issue, the onus of which was on the plaintiff himself. Defendant has specifically denied execution of agreement to sell in the written

statement. In view of such denial, the plaintiff was obligated to lead evidence in affirmative. Having failed to do so, the plaintiff cannot lead evidence in rebuttal in order to discharge onus of the issue, for which he was under legal obligation to lead evidence in affirmative.

[6]. There is no representation on behalf of the respondent.

[7]. In view of aforesaid legal position, there cannot be any escape, but to accept this revision petition. Consequently, impugned order dated 14.11.2014 passed by Civil Judge (Junior Division), Ferozepur is set aside. This revision petition is allowed. Normal consequences to follow.

27.09.2019

*Prince*

**(RAJ MOHAN SINGH)  
JUDGE**

**Whether reasoned/speaking**

**Yes/No**

**Whether reportable**

**Yes/No**