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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 16473 of 2018 (O&M)
Date of Decision: 14.01.2019

Puran Mal

-Petitioner

Vs

Sawai Singh

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Varun Gupta, Advocate,
for the petitioner.

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RAJ MOHAN SINGH, J. (ORAL)

Petitioner has assailed the order dated 15.12.2018 passed by Additional Civil Judge (Senior Division), Narnaul vide which prayer for examination of Handwriting Expert in the application for additional evidence was rejected.

Perusal of the record would show that in para no.2 of the written statement, defendant has denied execution of pronote and receipt, rather his stand was that the aforesaid documents were falsely prepared by forging signature of the defendant.

Issue was framed of which onus was on the plaintiff himself. No evidence was led by the plaintiff-petitioner in his affirmative evidence. No right was reserved to lead such

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evidence in rebuttal.

In view of ***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 vs. Baldev Singh, 2015(1) PLR 230 (DB)***, the plaintiff cannot be allowed to lead evidence in rebuttal in respect of an issue, the onus of which was on the plaintiff himself.

In the instant case, plaintiff seeks to lead evidence by way of additional evidence in respect of that very issue, the onus of which was on the plaintiff himself.

The aforesaid precedents were not considered in ***Rajesh Kumar vs Mangat Rai and others, 2011(17) RCR (Civil) 565*** i.e. the case law relied upon by the petitioner. Even otherwise, the order vide which evidence of the plaintiff was closed has not been assailed.

In view of ***Chand Singh vs Naranjan Singh and another, 1990(1) SimLJ 292***, plaintiff cannot be allowed to lead additional evidence. The cumulative effect of consideration is rested upon the nature of prayer which is being made by the plaintiff in the form of examination of Handwriting Expert at such a stage where no such evidence was to be led nor any right was reserved to lead evidence in rebuttal.

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The order vide which evidence of the plaintiff was closed was never assailed by him before appropriate forum.

In view of aforesaid, no indulgence can be granted to the petitioner for leading additional evidence on the aforesaid subject.

This revision petition is accordingly, dismissed.

Any observation made hereinabove shall not be construed to be an opinion on merits of the case at the time of final disposal of the suit.

14.01.2019
Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No

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