

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

223

CR-1943-2021 (O&M)

Date of decision: 14.12.2021

KRISHAN

..Petitioner

Versus

DARSHAN DEVI

..Respondent

CR-1997-2021 (O&M)

SULTAN

..Petitioner

Versus

DARSHAN DEVI

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ajay Ghangas, Advocate for the petitioner.
 Mr. Harkesh Manuja, Advocate for the respondent.

ANIL KSHETARPAL, J (Oral)

This order shall dispose of CR No.1943 and 1997 of 2021.

The point in issue, in both the revision petitions, is identical and the learned counsel for the parties are common. They are ad idem that both the revision petitions can be conveniently, disposed of, by a common order.

The defendant in a suit for recovery of money is the petitioner herein. He assails the correctness of the orders passed by the learned trial Court permitting the plaintiff to examine the fingerprint and handwriting expert in the rebuttal evidence.

Learned counsel for the petitioner contends that the plaintiff can be permitted to lead rebuttal evidence only with respect to the issues, onus

whereof, was on the defendant. He contends that from a bare perusal of the issues framed by the Court, it is evident that the proposed evidence of the fingerprint and handwriting expert does not fall within the scope of issue No.2 to 4. He further draws the attention of the Court to the order passed on 09.11.2021 in CR No.883 of 2021 (Darshan Devi vs. Krishan and others). The petitioner and the respondent, herein, were parties in the aforesaid revision petition.

In fact, there are three suits filed for the recovery of different amounts. The aforesaid three suits are pending and similar applications, for permission to examine the fingerprint and handwriting expert in rebuttal evidence, was filed in all of them. In two cases, applications are allowed whereas in the third case, the application has been dismissed. CR No.883 of 2021 arise from the order passed by the trial Court dismissing the application. The aforesaid order has been passed on the basis of the judgments passed by two different Division Benches in **Surjit Singh and ors. vs. Jagtar Singh and ors., 2007(1) RCR (Civil) 537** and **Jagdev Singh and others vs. Darshan Singh and others, 2007(1) RCR (Civil) 794.**

On the other hand, learned counsel representing the plaintiff-respondent contends that the defendant has denied his signatures in the cross-examination. Hence, it is necessary for the proper adjudication of the case to permit the plaintiff to lead rebuttal evidence. In fact, he submits that the

fingerprint and handwriting expert has already been partially examined.

As already noticed, two different Division Benches have consistently laid down that the right to lead rebuttal evidence is only limited to the issues, onus, whereof, was/is on the defendant. In Civil Suit No.CS/375/2017, the trial Court has framed the following issues:-

1. Whether the plaintiff is entitled to decree for recovery of Rs.1,07,225/- along with interest @ 24% per annum on the grounds as mentioned in the plaint?OPP
2. Whether the suit of the plaintiff is not maintainable in the present form?OPD
3. Whether the plaintiff has no cause of action and locus standi to file the present suit?OPD
4. Whether the suit is not properly valued for the purpose of Court fee and jurisdiction?OPD
5. Relief.

The plaintiff was afforded sufficient opportunity to lead his evidence. Thereafter, the defendant concluded his evidence. It is evident that the proposed evidence sought to be produced does not fall within the scope of issue No.2 to 4. Keeping in view the aforesaid binding precedents, this Court is left with no choice but to set aside the impugned orders and allow the revision petitions.

Accordingly, the impugned orders are set aside and the present petitions are allowed.

All the pending miscellaneous application(s), if any, are also disposed of.

14.12.2021

ashok

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No