

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

**CR-2148-2021
DECIDED ON: 29th SEPTEMBER, 2021**

SIRI CHAND

.....PETITIONER

VERSUS

HARI CHAND AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT.

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

In virtual Court

RAJBIR SEHRAWAT, J (ORAL)

The instant petition has been preferred under Article 227 of the Constitution of India seeking setting aside of the impugned order dated 24th September, 2021 passed by learned Civil Judge (Jr. Division), Kurukshetra, whereby the application dated 22nd February, 2021 (Annexure P-7) filed by the petitioner-defendant for additional evidence, has been dismissed.

It is submitted by counsel for the petitioner that Court below has gone wrong in law in declining the application filed by the petitioner for leading additional evidence. Referring to the pleadings, counsel for the petitioner has submitted that at the time when the petitioner was leading evidence in defence; the petitioner was not even aware of the fact that Form-J, led in evidence by the plaintiff; was a forged document. It is only subsequently, when on advice from the counsel for the petitioner, he tried to find out the veracity of the said Form-J from the concerned person, that

it came out that the said Form-J was never issued by the said person who is stated to have issued the same. Therefore, the said documents were forged in nature. Accordingly, the application was moved by the petitioner for leading additional evidence. Referring to the order, counsel for the petitioner has further submitted that Court below has wrongly recorded that it is not the case of the petitioner that these documents were not in the knowledge of the petitioner. This observation made by the Court below is against the pleadings raised in the application moved by the petitioner. Moreover, this case is at the stage of rebuttal evidence, if any. However, plaintiff is yet to avail this opportunity. Hence, the case has not ;effectively; proceeded further from the stage of evidence of the petitioner/defendant.

Having heard counsel for the petitioner and perused the record, this Court finds substance in the argument raised by the counsel for the petitioner. The petitioner has pleaded in the application that he came to know of the factum of Form-J being forged one only after he had closed his evidence. Therefore, the petitioner had no opportunity to lead the said aspect in evidence at the earlier stage. Moreover, the case has still not proceeded further from the stage of the closure of the evidence of the petitioner. Hence, if the petitioner is granted an opportunity to lead the said evidence, then neither the trial would be unjustifiably prolonged nor the other side would be adversely affected at this stage. Needless to say that the plaintiff is yet to start his evidence in rebuttal. The trial Court can grant opportunity to plaintiff to rebut whatever evidence petitioner-defendant wants to lead as additional evidence. Hence, it would not be unjustified, if the petitioner is granted opportunity to lead evidence to

prove the alleged forgery qua Form-J.

Accordingly, the impugned order is set aside. The trial Court is directed to grant opportunity to the petitioner to lead additional evidence on the aspect; as claimed by him in the application. However, petitioner shall not be granted more than two effective opportunities for the said purpose.

The petition is disposed of.

29th SEPTEMBER, 2021
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(RAJBIR SEHRAWAT)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>