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

CR No. 2698 of 2021

Date of Decision: 01.12.2021

Romesh Kumar

-Petitioner

Versus

Roshan Lal (deceased) through LRs and others

-Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Satbir Rathore, Advocate,
for the petitioner.

RAJ MOHAN SINGH, J. (Oral)

The case has been taken up for hearing through video conferencing.

Plaintiff led expert evidence in his affirmative. Onus of issue No.2 was on the defendant to prove that the alleged General Power of Attorney dated 21.11.2008 and sale deed dated 12.12.2008 were null and void and were result of fraud and mis-representation.

At the time of passing order dated 27.11.2018 in Civil Revision No.4599 of 2017, it was held that the person who claims some right on the basis of a document is required to prove the same positively.

Since the defendant was relying upon the document in question, therefore, the issue was re-cast thereby fastening liability on the defendant to discharge the onus.

At that stage, the defendant was still to lead his defence in affirmative, but he did not opt to lead evidence in affirmative. Plaintiff had already led expert evidence in affirmative.

In such a situation, a person cannot lead expert evidence in rebuttal in respect of an issue, the onus of which was on the party i.e. the defendant.

The analogy as drawn in **Avtar Singh vs Baldev Singh, 2015(1) PLR 230 (DB)**, **Jagdev Singh vs Darshan Singh, 2007(1) RCR (Civil) 794 (DB)**, **Surjit Singh vs Jagtar Singh, 2007(1) RCR (Civil) P&H 537 (DB)** and the order dated 05.04.2019 passed by this Court in **Civil Revision No.722 of 2015 titled 'Kewal Krishan (deceased) through Lrs vs Raj Kishan and others'** would squarely cover the controversy.

No exception can be made in the present case.

Dismissed.

01.12.2021

Jyoti Sharma

(RAJ MOHAN SINGH)
JUDGE