

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

CR-7827-2017 (O&M)

Date of decision : May 31, 2022

Karam Singh and others

..... Petitioners

Versus

Sanjeev Kumar

..... Respondent

CORAM : HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Vikram Preet Arora, Advocate for the petitioners.

Mr. Harsh Garg, Advocate for the respondent.

ANIL KSHETARPAL J. (ORAL)

The issue which arises for consideration is as to what is the scope of rebuttal evidence. Two different Division Benches of this Court by consistent view have held that the scope of rebuttal evidence is restricted only with respect to the issue/issues onus thereof is on the defendant.

In the present case, the trial Court framed the following issues:-

- “1. Whether plaintiff is entitled for recovery as prayed for? OPP*
- 2. Whether plaintiff is entitled for interest as prayed for? OPP*
- 3. Whether suit of plaintiff is not legally maintainable? OPD*
- 4. Whether the suit of the plaintiff is barred by limitation? OPD*
- 5. Whether plaintiff has not come to the court with clean hand and suppressed true and material facts from the court? OPD*
- 6. Whether plaintiff is estopped from filing the present suit of his act and conduct? OPD*
- 7. Relief.”*

Learned counsel representing the respondent-plaintiff contends

that the plaintiff is entitled to lead evidence on issue No.1. He relies upon

the judgment of Division Bench of this Court in “*Avtar Singh and another vs Baldev Singh and others*”, passed in CR No.2203 of 2010, decided on 21.11.2014.

On a careful reading of the judgments cited by learned counsel representing the plaintiff-respondent, it is evident that the judgment passed by this Court in “*Surjit Singh vs Jagtar Singh*”, 2007(1) RCR(Civil) P&H 537, has been relied upon, wherein it has been conclusively held that the respondent-plaintiff is permitted to lead rebuttal evidence only with respect to the issue onus whereof is on the defendant. Hence, the trial Court has erred in permitting the plaintiff to lead rebuttal evidence on issue No.1.

In view thereof, the order under challenge is not sustainable. Consequently, it is set aside while allowing the revision petition.

(ANIL KSHETARPAL)
JUDGE

May 31, 2022

sarita

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No