

**121-1 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

1.CR-2932-2019 (O&M)

Harbhajan Singh

....Petitioner

Versus

Amarjit Kaur

..Respondent

2.CR-2934-2019 (O&M)

Harbhajan Singh

....Petitioner

Versus

Amarjit Kaur

..Respondent

Date of decision: 25.07.2022

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Gagandeep Singh Sirphikhi, Advocate for the petitioner

Mr. Manoj Kaushik, Advocate for the respondent

ANIL KSHETARPAL, J (Oral)

By this order, two civil revision petitions i.e CR-2932-2019 and CR-2934-2019 shall stand disposed of.

In a suit for recovery of Rs.28,00,000/- filed by the petitioner (plaintiff), the court has refused to give him an opportunity to lead rebuttal evidence in order to examine the hand-writing and finger print expert. The dispute is with regard to the correctness of a receipt produced by the plaintiff depicting that the defendant has thumb marked the same.

The defendant denied any loan transaction.

On appreciation of pleadings, the trial court culled out the

following issues:-

“1) Whether the plaintiff is entitled to the recovery of suit amount as prayed for? OPP

2) Whether the suit is not maintainable in the present form? OPD.

3) Whether the plaintiff has not come to the court with clean hands as he is guilty of suppression of facts from the Hon'ble Court? OPD

4) Whether the suit of the plaintiff is hopelessly time barred?

5) Relief.”

When the defendant was leading her evidence, she examined a hand-writing and finger print expert. After the closure of evidence of the defendant, the plaintiff's prayer for leading rebuttal evidence has been declined. Learned counsel representing the petitioner contends that rebuttal evidence can be permitted under issue no.3 because the defendant, for the first time while appearing in evidence, specifically denied her thumb impression on the receipt Ex.P-6.

Learned counsel representing the respondent submits that the trial court has correctly refused such permission to the petitioner.

A Division Bench of this Court in **Surjit Singh and others vs. Jagtar Singh and others** 2007(1) RCR (Civil) 537 has held that the plaintiff can be permitted to lead rebuttal evidence where onus thereof is on the defendant and the onus to prove issue no.3 is on the defendant.

Keeping in view the aforesaid facts, the order dated 20.03.2019 under challenge is set aside. The petitioner is permitted to lead secondary evidence in rebuttal evidence. In CR-2934-2019 the defendant has been permitted to lead additional evidence in order to

clarify that her thumb impression is of the right hand.

The trial court in its discretion has permitted the defendant to lead evidence in order to clarify the position.

Keeping in view the aforesaid facts, CR-2934-2019 is dismissed whereas CR-2932-2019 is allowed.

All the pending miscellaneous applications, if any, are also disposed of.

25.07.2022

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE