

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

134

CR-3015-2022

Date of decision: 01.08.2022

Kamaljit Kaur

.....Petitioner

Versus

Nirmala Devi

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Onkar Rai, Advocate for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

The petitioner is impugning the order dated 25.07.2022 (Annexure P-1) vide which the trial Court declined permission to lead evidence in rebuttal.

Learned counsel for the petitioner submits that the impugned order suffers from material irregularity and had thus caused grave prejudice to the petitioner. He further submits that the trial Court failed to appreciate that the necessity of filing the application to examine a hand writing expert on behalf of the petitioner to compare the signatures of the respondent arose only subsequent to the examination of the hand writing expert by the respondent during her evidence. He further submits that no issue was framed regarding fabrication and forgery of the rent note, therefore, even if he had not reserved the right to lead evidence in rebuttal it would in no manner extinguish his right to lead the same. A prayer has, therefore, been made, that for just and effective adjudication of the case, the petitioner be permitted to examine a hand writing expert. In support he has placed reliance upon *Karanjeet Singh Vs. Amarpreet Singh (PHHC): (2018-3)191 Punjab Law Reporter 71*.

I have heard learned counsel and perused the relevant material on record.

The petitioner-landlord has filed a rent petition for ejectment of the respondent from the demises premises. The onus to prove the existence of relationship of landlord and tenant between the parties is on the petitioner-landlord. The petitioner-landlord is relying upon a rent note to prove the same. It would be relevant to point out here that when a party relies upon a document to claim a right, then onus to prove its due execution too is on that party alone. The burden would shift to the other party only after the first party has discharged its initial onus of proving due execution of the document.

Merely because the respondent has examined a hand writing expert would not give a right to the petitioner to lead evidence in rebuttal, when admittedly the petitioner-landlord had not reserved the right to lead evidence in rebuttal at the time of closing her evidence in affirmative, at any time before the respondent's evidence started.

Further, non-framing of a specific issue with respect to the rent note being forged and fabricated would be of no consequence in rent proceedings when the issue qua the existence of relationship of landlord-tenant between the parties already stands framed.

The instant revision petition being devoid of merit is dismissed.

01.08.2022

Vinay

**(MANJARI NEHRU KAUL)
JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No