

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 5696 of 2022 (O&M)

Date of Decision: 29.04.2022

Paramjit Singh

... Petitioner(s)

Versus

Hoshiar Singh and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Kanwaljit Singh, Senior Advocate
with Mr. Ajaypal Singh Sandhu, Advocate
for the petitioner(s).

Mr. Pankaj Midha, Advocate
for the respondent No.2 and 3.

Anil Kshetarpal, J.

1. The petitioner, before this Court, is the plaintiff in a suit for grant of decree for possession by way of specific performance of the agreement to sell. His request for permission to lead additional evidence, in order to produce a bank official along with his bank account statement, was dismissed. The plaintiff, in order to prove his readiness and willingness, wishes to examine the bank official and produce his bank account statement.

2. The trial Court has dismissed the application while observing that a similar request for leading rebuttal evidence has been declined. The Court has relied upon the judgment passed in ***Gurcharan Singh and Others v. Sukhmander Singh and Others 2018(3) Law Herald 1981.***

3. Heard the learned counsel representing the parties and with their able assistance, perused the paper-book.

4. It would be noted here that the plaintiff has made an attempt to produce the bank official in rebuttal evidence. The examination-in-chief of the bank official was recorded. However, thereafter, it was held that the evidence of the bank official does not fall within the scope of rebuttal evidence. The petitioner filed a revision petition i.e. CR-2874 of 2014, which was permitted to be withdrawn with liberty to the petitioner to move an application for additional evidence. Pursuant thereto, an application for permission to lead additional evidence was filed but dismissed by the trial Court.

5. Although the substantive provision with regard to the additional evidence under Order XVIII Rule 17A CPC has been deleted, yet the Court has a power to permit the additional evidence in the exercise of its inherent powers. The Rules of procedure are required to be followed in order to advance the cause of justice. The scope of rebuttal evidence is limited. The plaintiff can be permitted to lead rebuttal evidence only on an issue or issues, onus whereof was on the defendant. Thus, the rebuttal and the additional evidence are independent of each other. The scope of the additional evidence is not the same as that of rebuttal evidence.

6. This Court has carefully read the judgment passed in ***Gurcharan Singh's case*** (*supra*). While dismissing the revision petition in *limine*, the Court has made passing observations. In the considered opinion of this Court, such observations cannot be construed as *ratio decidendi*. Every observation made by the Court cannot be construed as *ratio decidendi*. A reliance in this regard has been placed on the five Judges Bench of the Supreme Court in ***Krishena Kumar and Others v. Union of***

7. While permitting the petitioner to withdraw the petition i.e. CR-2874-2014, the petitioner was granted liberty to move an application for additional evidence. Furthermore, the additional evidence sought to be produced would help the Court in adjudicating the matter properly.

8. Keeping in view the aforesaid facts, the present revision petition is allowed. The petitioner is permitted to lead additional evidence, subject to payment of ₹5,000/- as costs. The plaintiff is directed to produce the bank official for cross-examination while granting an opportunity to the defendants, as the examination-in-chief of the said witness has already been recorded.

9. The miscellaneous application(s) pending, if any shall stand disposed of.

(Anil Kshetarpal)
Judge

April 29, 2022
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No