

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

CR-4164-2016 (O&M)

Date of Decision: 17.01.2023

Kamal Singh

.....Petitioner

Versus

Laxmi Devi and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Sumit Jain, Advocate
for the petitioner.

Mr. Vikram Singh Narwal, Advocate for
Mr. J.P. Jangu, Advocate
for the respondents.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for setting aside order dated 31.05.2016 (Annexure P-4) whereby the application filed by the plaintiff/petitioner herein for leading rebuttal evidence, was declined.

2. Having heard the rival arguments, I am of the view that the revision petition deserves to be allowed on merits for the reasons recorded herein after.

3. The petitioner's application is premised on following grounds:-

“xxxx xxxx xxxx xxxx

2. That in the present case, the applicant/plaintiff has sought a decree for specific performance in respect of the suit land against the defendants on the basis of agreement of sale dated 20.12.2012. The applicant/plaintiff has led his evidence to prove the execution of the said agreement dated 20.12.2012 in his affirmative evidence and discharged his burden. However, the defendants have produced a handwriting and figure print expert as DW-6 in his evidence to disprove the execution of the said agreement the onus of which lies upon the defendants and produced his report. In fact, the said report of handwriting expert is wrong, illegal, false, fabricated and the same has been got

prepared by the defendants in collusion with the said handwriting expert with the ulterior motive to keep the Hon'ble court in dark. As such, the applicant/plaintiff wants to produce handwriting expert in his rebuttal evidence to produce the correct report on file which shall be helpful to decide the present case properly by the Hon'ble court. The applicant/plaintiff has legal right to give the evidence in rebuttal against the evidence of the defendant.

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4. First and foremost, the Ld. Trial Court fell in error in observing that the plaintiff cannot be allowed to give evidence in rebuttal to contradict the evidence of the defendant/respondents herein which was led in affirmative and for the reason that the plaintiff/petitioner did not reserve the right for rebuttal. In case the plaintiff/petitioner so feels that the evidence adduced by the defendant/respondents needs to be rebutted by way of adducing additional evidence, he ought to be allowed to do so, unless it would cause any material prejudice to the opponent, which does not seem to be the case herein.

5. In the present case, the plaintiff without causing any delay in the proceedings immediately moved an application for adducing additional evidence. Therefore, no fault can be found on the part of the plaintiff on the ground of causing delay in trial of the proceedings. In any case, the delay would be detrimental to the plaintiff himself as disposal of his suit would get delayed and therefore the defendant/respondents would not be prejudiced *qua* the delay in proceedings.

6. In light of the discussion herein above, as I have already observed that the revision petition deserves to be allowed, the same is accordingly allowed with liberty to the plaintiff/petitioner to adduce evidence in rebuttal for which the Ld. Trial Court shall grant only one opportunity and in case the plaintiff/petitioner fails to do so, the right to give rebuttal evidence shall stand foreclosed and the Ld. Trial Court shall be at liberty to proceed further in the trial. If the plaintiff thus leads any further evidence, the defendants shall also be given reasonable opportunity to produce further evidence, if any.

7. Pending civil miscellaneous applications, if any, also stand disposed of.

(ARUN MONGA)
JUDGE

January 17, 2023
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No