

In the High Court of Punjab and Haryana, at Chandigarh**Civil Revision No. 7453 of 2016****Date of Decision: 06.11.2023**

Jagdip Singh

... Petitioner(s)

Versus

Hardeep Singh

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Rakesh Chopra and Mr. Jashan Chopra, Advocate
for the petitioner(s).

Mr. S.S.Rangi, Advocate
for the respondent.

Anil Kshetarpal, J.

1. In this revision petition, the scope of rebuttal evidence available to the plaintiff is in issue.
2. The respondent has filed a suit for possession by way of specific performance of the agreement to sell which was contested by the petitioner (defendant before the trial Court). On completion of the pleadings, the following issues were framed on 11.08.2011 by the trial Court:-

- “1. *Whether the plaintiff is entitled for possession by way of specific performance of the agreement to sell/contract 28.3.2006 executed by the defendant in favour of the plaintiff? OPP.*
2. *Whether the plaintiff is entitled for permanent injunction as prayed for? OPP.*
3. *Whether the suit of the plaintiff is not maintainable?*

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OPD

4. *Whether the plaintiff has not come to the Court with clean hands and has suppressed the true and material facts from the Court? OPD*
5. *Whether the suit is undervalued? OPD*
6. *Relief.”*

3. The plaintiff has led his evidence and thereafter, the defendant concluded his evidence. At that stage, the case was fixed for rebuttal evidence, if any. The plaintiff has filed an application for inspection and to take photographs of the disputed signatures of Jagdeep Singh from agreement dated 28.03.2006. The plaintiff wanted to examine the Handwriting and Fingerprint Expert to prove the signatures of the defendant. The defendant (petitioner herein) filed an application (Annexure P2) with a prayer that the plaintiff should not be permitted to examine the Expert. The aforesaid application has been dismissed by the trial Court on 03.10.2016. This revision petition has been filed against the aforesaid order.

4. Two different Division Benches of this Court in ***Surjit Singh and Others v. Jagtar Singh and Others 2007(1) RCR (Civil) 577*** and ***Jagdev Singh and Others v. Darshan Singh and Others 2007(1) RCR (Civil) 794*** have examined the scope of rebuttal evidence. It has been held that the plaintiff can be permitted to lead rebuttal evidence only with respect to the issues, onus whereof was on the defendant. From the perusal of the issues, it is evident that the onus to prove the issue No.1 and 2 is on the plaintiff, whereas onus to prove the issue No. 3, 4 and 5 is on the defendant.

of issue No. 3, 4 and 5.

5. At this stage, the learned counsel representing the respondent submits that the evidence sought to be led can be treated as an additional evidence.

6. This Court has considered the submissions. At this stage, the Court has only permitted the plaintiff to lead rebuttal evidence. The same is not in consonance with the scope of rebuttal evidence as explained by two different Division Benches. However, the respondent shall have the liberty to file an application for additional evidence which shall be considered and decided by the trial Court in accordance with law.

7. With the observations made above, the present revision petition is allowed.

(Anil Kshetarpal)
Judge

November 06, 2023

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No