

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

131

2023:PHHC:132300

CR-1860-2019

Date of decision: 11.10.2023

**CHARAN DASS SAHIB RAM COMMISSION
AGENTS THROUGH ITS PROPRIETOR NOW
DECEASED THROUGH LRS**

..Petitioner

Versus

SAROJ DEVI AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Priyanshu Kamra, Advocate
for the petitioner.

Mr. Reshab Bajaj, Advocate
for respondent No.1.

None for respondent No.2 to 4.

Service upon respondent No.5 dispensed with
vide order dated 09.09.2019.

ANIL KSHETARPAL, J(Oral)

1. The proceedings filed by the landlord to seek eviction of the tenant (the petitioner herein) is pending before the learned Rent Controller. The dispute in the present revision petition is with regard to the scope of rebuttal evidence, to be led by the landlord.
2. The learned Rent Controller has culled out the following issues for adjudication:-

*“i. Whether the demised premises is bonafide required by the applicant? OPA
ii. Whether the respondent is in area of rent as prayed for? OPA
iii. Whether present application is not maintainable? OPR
iv. Relief”*

3. The landlord has examined as many as 7 witnesses, thereafter, the tenant examined as many as 6 witnesses. After the tenant closed the evidence, the landlord sought permission of the Court to lead rebuttal

evidence, which has been allowed on 02.03.2019. The correctness of the aforesaid order has been challenged in this revision petition.

4. The scope of evidence to be led at the stage of rebuttal has been explained by the Division Bench in *Surjit Singh and others Vs. Jagtar Singh and others, 2017 (1) RCR (Civil) 537* and *Jagdev Singh and others Vs. Darshan Singh and others, 2007(1) RCR (Civil) 794*. It has been held that the plaintiff/petitioner can be permitted to lead rebuttal evidence only with respect to the issue, the onus whereof was on the defendant or respondent.

5. In this case, the onus to prove issue No.3 is on the tenant. The respondent wants to produce the partnership deed and other documents to prove his case.

6. It is obvious that the aforesaid evidence sought to be led by the landlord does not strictly fall within the scope of rebuttal evidence.

7. At this stage, the learned counsel representing the respondent submits that he will file an application for permission to lead additional evidence before the learned Rent Controller.

8. Keeping in view the aforesaid facts, the impugned order dated 02.03.2019 is set aside, however, the respondent shall have liberty to file an application for permission to lead additional evidence.

9. With these observations, the present petition is disposed of.

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

October 11th, 2023

**(ANIL KSHETARPAL)
JUDGE**

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Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*