

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-6598-2019

Date of Decision :14.02.2023

Vikas Gupta

...Petitioner

Versus

Parminder Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Amrik Singh, Advocate for the petitioner.

Mr. Vijay Lath, Advocate for the respondents.

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Harsimran Singh Sethi, J. (Oral)

In the present revision petition, though, two orders have been impugned i.e. order dated 02.09.2019 (Annexure P/4) passed by the trial Court by which, prayer of the petitioner/plaintiff for producing rebuttal evidence was declined and also order dated 09.10.2019 (Annexure P/8) by which, application of the petitioner/plaintiff for leading additional evidence was declined by the trial Court but learned counsel for the petitioner submits that as both the orders relate to same request though, in a different form, the petitioner is not challenging order dated 09.10.2019 (Annexure P/8) by which, his prayer for leading additional evidence was declined and the present petition may kindly be treated having pressed qua order dated 02.09.2019 (Annexure P/4) only.

Learned counsel for the petitioner argues that in the suit filed

by the petitioner/plaintiff issues were framed by the trial Court on 09.02.2015 and as per the issues so framed, with regard to issue No.8 which was “whether the agreement to sell dated 24.07.2007 is a forged and fabricated document” the same was required to be proved by the defendants. Learned counsel for the petitioner/plaintiff submits that the petitioner/plaintiff closed his evidence and in the evidence produced by the defendants, which has come in defence, in order to rebut the same, the petitioner/plaintiff wanted to examine the Handwriting expert and Finger Print Expert to rebut the evidence brought on record by the defendants on the issue No.8. Learned counsel for the petitioner submits that the application seeking production of rebuttal evidence has been declined by the trial Court on the ground that as no permission was taken for adducing the rebuttal evidence hence, the said prayer cannot be allowed.

Learned counsel for the petitioner argues that in the present petition, only affirmative evidence was closed and once certain evidence was brought on record by the defendants in their defence, the petitioner-plaintiff was well within his right to rebut the same, keeping in view the settled principle of law settled by the Division bench of this Court in **C.R. No.872-1982** titled as **Jaswant Kaur and another vs. Devinder Singh and others** decided on 02.05.1983. Learned counsel for the petitioner argues that when only affirmative evidence is closed, the right to lead rebuttal evidence is kept reserved.

Learned counsel for the respondents on the other hand submits that the issues which were framed by the trial Court on 09.02.2016 were not framed in accordance with law hence, no benefit of the issue framed qua

issue No.8 can be given in favour of the plaintiff. Learned counsel for the respondents concedes the fact that as of now issue No.8 was required to be proved by the defendants.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

It is not disputed that only affirmative evidence was closed by the petitioner/plaintiff, which clearly shows that keeping in view the settled principle of law settled by the Division Bench of this Court in **Jaswant Kaur (supra)**, the right to lead rebuttal evidence is reserved. That being so, the petitioner/plaintiff is very much entitled to lead rebuttal evidence. Even otherwise, issue No.8 was required to be proved by defendants and the evidence which has brought on record by the defendants can be rebutted by the petitioner/plaintiff .

Learned counsel for the respondents has not been able to dispute the settled principle of law settled in Jaswant Kaur (supra). That being so, order passed by the trial Court refusing the petitioner/plaintiff to lead rebuttal evidence is contrary to the said settled principle of law and has been passed on wrong assumption that petitioner/plaintiff has not reserved his right to lead rebuttal evidence.

Keeping in view the above, order dated 02.09.2019 (Annexure P/4) passed by the trial Court is set aside and the right to lead rebuttal evidence in the form of Handwriting Expert and Finger Print Expert is allowed in favour of the petitioner/plaintiff .

At this stage, learned counsel for the respondents submits that issues framed by the Court below were not framed in accordance with law.

The said question cannot be considered in the present proceedings and in case respondents are aggrieved in any manner, they are free to avail an appropriate remedy available with them under the law.

Present revision petition stands allowed.

February 14, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

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