

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-2226-2024
Date of Decision: 16.04.2024

BHARAT @ BHARAT BHUSHANPETITIONER
VS
HARI KISHANRESPONDENT

CORAM: HON’BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Gaurav Singla, Advocate for the petitioner.

GURBIR SINGH, J.

1. Challenge in this petition is to the order dated 29.02.2024 (Anneuxre P-5) passed by learned Civil Judge (Junior Division) Palwal, whereby application to lead the additional evidence filed by the respondent was allowed.
2. Brief facts which are necessary for the disposal of this petition are that respondent (hereinafter called ‘plaintiff’) filed a suit for possession by way of specific performance of agreement to sell dated 17.01.2022 for sale consideration. The petitioner (hereinafter called ‘defendant’) contested the suit. He filed the written statement and denied the execution of alleged agreement to sell and also the receipts of the amounts received as earnest money. The matter was fixed for rebuttal evidence of the plaintiff and the plaintiff moved an application to lead the additional evidence to examine the finger print expert for the purpose of comparison of thumb-impressions of defendants on the agreement to sell. The said application was allowed by the learned trial Court vide order dated 29.02.2024, which has been challenged in this revision petition.
3. Learned counsel for the petitioner/defendant has argued that the petitioner has never executed or signed any such agreement or receipt. The

respondent/plaintiff was required to lead evidence which is sought to be led now, at the affirmative stage. After the closing of the evidence of petitioner/defendant, respondent/plaintiff cannot be allowed to examine the expert. Reliance has been placed on cases of *Munna Lal Vs. Sadhu Ram and others*, 2009(3) PLR 696; *Tara Chand Vs. Randeep Singh*, Law Finder Doc Id#37935; *Urmila @ Pinki Vs. Gulshan Rai and Others*, Law Finder Doc Id # 888829; *Satpal Vs. Murti Devi and Ors*, Law Finder Doc Id # 2016664; *Surjit Singh and Ors Vs. Jagtar Singh and Ors*, Law Finder Doc ID # 124851; *Jagdev Singh and Ors Vs. Darshan Singh and Ors*: Law Finder Doc Id # 125625, *Jasmail Singh Sanghera Vs. Sohan Singh Sanghera and Ors*, Law Finder Doc Id#2337123; *Avtar Singh and Baldev Singh & Others*, CR.No.2203-2010 decided on 08.12.2024.

4. I have heard the submissions made by learned counsel for the petitioner.

5. The case *Urmila @ Pinki Vs. Gulshan Rai and Others (Supra)* is with regard to lead rebuttal evidence, wherein it has held that rebuttal of evidence available to plaintiff is only with respect to issues, onus whereon is on defendant. In case *Satpal Vs. Murti Devi and Ors (Supra)*, the suit is for grant of permanent injunction wherein the plaintiff moved an application for examining hand-writing and finger prints expert in rebuttal evidence and it has been held that it was rightly dismissed on the ground he could lead evidence in affirmative. In case *Surjit Singh and Ors Vs. Jagtar Singh and Ors (Supra)*, it has been held that party cannot be permitted to lead evidence on the issues for which burden of proof was on the other party. In case *Jagdev Singh and Ors Vs. Darshan Singh and Ors (Supra)*, it has been held that plaintiff cannot as of right lead evidence in rebuttal on issues, the onus of proof of which is on them.

In case *Jasmal Singh Sanghera Vs. Sohan Singh Sanghera and Ors (Supra)*, it has held that at the stage of rebuttal evidence, plaintiff cannot be allowed to adduce secondary evidence, onus of which was upon him at the time of leading evidence in affirmative. The case *Avtar Singh and Baldev Singh & Others (Supra)*, is with regard to leading evidence by the plaintiff in rebuttal. So, all the above mentioned authorities cited by learned counsel for the petitioner are of no help to the petitioner/defendant.

6. In the case in hand, the plaintiff wants to examine the expert for the comparison of the disputed signatures of the defendant on the agreement to sell with the admitted signatures of the defendant by way of additional evidence. No new case is being set up by the plaintiff. In a suit for specific performance for the agreement to sell, the report of expert regarding signatures of party generally help the Court to decide the controversy whether said document was executed in a rightful way. When plaintiff is allowed to lead additional evidence then defendant would get opportunity to rebut the additional evidence to be led by the plaintiff. If some evidence is brought during rebuttal evidence then other party does not get opportunity to rebut the rebuttal evidence. The trial Court shall give opportunity to defendant to rebut the additional evidence to be led by plaintiff.

7. In the light of the above, I do not find any illegality in the order passed by the learned Court below. The revision petition is without merit and it is dismissed in limine.

16.04.2024
renu

(GURBIR SINGH)
JUDGE

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