



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CR-3324-2024 (O&M)
Decided on: 17.07.2024

Amar Singh

...Petitioner

Versus

Haryana Urban Development Authority,
Kurukshetra and another

...Respondents

CORAM: HON'BLE MRS JUSTICE RITU TAGORE

Present: Mr. Raghav Sharma, Advocate
for the petitioner.

Ms. Amrita Nagpal, Advocate
for respondent No.2.

RITU TAGORE, J.

1. On advance notice, Ms.Amrita Nagpal appears and files power of attorney on behalf of respondent No.2 and the same is taken on record, subject to just exceptions.
2. This revision is directed against the order dated 24.01.2024 passed by learned Civil Judge (Junior Division), Kurukshetra, in a Civil Suit No.1850 of 2016 titled ‘Amar Singh Vs. Haryana Urban Development Authority and another’ whereby an application filed by the petitioner (plaintiff) to examine witness in rebuttal evidence has been dismissed.
3. Learned counsel states that the petitioner has filed a suit seeking declaration and permanent injunction (Annexure P-1) against respondents



No.1 and 2 (defendants) and submitted an application for the examination of Raj Kumar son of Radhey Shyam and Asgar Ali in the rebuttal evidence. The application was allowed vide order dated 12.01.2024 (Annexure P-4). It is stated that the above mentioned order was not challenged by the respondents and has attained finality.

4. Learned counsel submits that, pursuant to the order dated 12.01.2024 (Annexure P-4), the petitioner deposited the expenses for the examination of the witnesses. However, the respondent No.2 threatened the witnesses, resulting in their failure to appear for their statements before the learned trial Court, and referred to the order dated 22.01.2024 (Annexure P-5). Learned counsel states that, faced with this situation, the petitioner moved an application for permission to examine the witnesses Jaswant Singh son of Jita Ram, Subhash Chand son of Deva Ram, who were already present in the Court, in the rebuttal evidence. Upon contest by the respondent, learned trial Court dismissed the application without duly considering that the petitioner had already been granted the opportunity to present rebuttal evidence. The learned counsel submits that the order is harsh upon him and has prevented the petitioner from effectively rebutting the defendant's version and presenting his case comprehensively. A prayer is made to set aside the order and permit him to examine the witnesses as specified in his application (Annexure P-6).

5. Contrarily, learned counsel for respondent No.2 submits that learned trial Court has rightly passed the order as the petitioner failed to present his evidence in compliance of the order dated 12.01.2024 (Annexure P-4). It is urged that the evidence of the petitioner has already been closed and he has not reserved his right to lead rebuttal evidence.



Further, the petitioner can be allowed to lead rebuttal evidence on the issues on which the defendant has led the evidence. In these circumstances, a prayer is made to dismiss the petition being devoid of merits.

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

7. It is a matter of record that the petitioner was given the opportunity to examine Raj Kumar and Asgar Ali in rebuttal evidence. Evidently, the petitioner could not examine these witnesses. In application (Annexure P-6), the petitioner pleaded that due to issuance of threat by respondent No.2, to these witnesses, they did not appear for their evidence. The petitioner requested the learned Court to give him permission to examine Jaswant Singh and Subhash Chand, who were already present in the Court as witnesses in the rebuttal evidence. Undeniably, no revision was preferred by respondent No.2 against the order dated 12.01.2024 (Annexure P-4), allowing the petitioner to lead evidence in rebuttal. Thus, the contention of the counsel for respondent No.2 that petitioner should not be permitted to lead rebuttal evidence because he did not reserve his right to do so, and that the petitioner-plaintiff can only present evidence in rebuttal on the issues on which defendant had led the evidence, is not tenable. This is because the petitioner has already been granted permission to present rebuttal evidence and that order was never challenged by the respondent No.2.

8. In these circumstances, explained by the petitioner in his application (Annexure P-6), this Court is of the view that the learned trial Court committed a jurisdictional error in dismissing the application (Annexure P-6) vide the impugned order. To do complete justice between



the parties, I believe that one effective opportunity should be afforded to the petitioner to present the evidence in rebuttal. Accordingly, impugned order dated 24.01.2024 is set aside, subject to payment of Rs.15,000/- as costs to be paid to the respondent No 2, by the petitioner.

9. The petitioner shall appear before the learned trial Court on the due date of hearing as fixed by the learned trial Court and shall tender the costs to the respondent No.1 and conclude his evidence.

10. In case of default on the part of petitioner, this order shall stand automatically vacated.

11. Needless to mention, parties to the petition shall assist the Court in expeditious disposal of the case without seeking any undue adjournment(s).

12. Accordingly, this revision petition is hereby allowed, in the above terms.

13. Pending applications, if any, also stands disposed of accordingly.

(RITU TAGORE)
JUDGE

17.07.2024
Rimpal

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