



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

CR-8152-2018(O&M)

Date of Decision: September 05, 2025

Harmeet Singh through his LRs and others

...Petitioners

Versus

Baghel Singh

...Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Abhishek Singla and Mr.Gurinder Singh, Advocates
for the petitioners.

Mr.Rajan Bansal, Advocate
for the respondent.

ARCHANA PURI, J.

Challenge in the present revision petition is to the order dated 07.08.2018 passed by learned trial Court, whereby, an application for leading additional evidence, to examine handwriting and fingerprint expert, filed by the respondent-plaintiff was allowed, at the stage of rebuttal evidence.

In pursuance of the notice issued, respondent made appearance through counsel.

Counsel for the parties heard.

The essential facts, to be noticed, are as follows:-

That, initially, respondent-plaintiff Baghel Singh had filed a suit for

possession by way of specific performance of an agreement to sell dated 30.12.2008, allegedly executed by Harmeet Singh, in favour of the respondent-plaintiff, for sale of plot measuring 500 sq. yards and further also sought relief of permanent injunction to restrain the defendants/petitioners from alienation of the suit property. In the alternative, relief was sought, vis-a-vis, suit for recovery of Rs.16,31,250/-.

However, in the written statement, the petitioners-defendants had denied about Harmeet Singh to have ever agreed to sell the suit plot to the respondent-plaintiff, nor he had received any earnest money, whatsoever. Further, it was also pleaded that the alleged agreement to sell dated 30.12.2008, is a false and fabricated document and does not bear the signatures of Harmeet Singh.

It is relevant to mention that learned trial Court, on the basis of the pleadings, had framed the following issues:-

- “(i) *Whether the plaintiff is entitled to the relief of specific performance of agreement to sale dated 30.12.2008 as prayed for?OPP*
- (ii) *Whether the plaintiff is entitled to the relief of permanent injunction as prayed for?OPP*
- (iii) *Whether the plaintiff has got no cause of action and locus standi to file the present suit?OPD*
- (iv) *Whether the suit of the plaintiff is not maintainable? OPD*
- (v) *Whether the plaintiff has not come with clean hands?*
- (vi) *Relief.”*

The evidence was adduced by the respondent-plaintiff. Even,

after the closure of the evidence of the respondent-plaintiff, the petitioners-defendants had also led evidence. When the case was at the stage of rebuttal evidence, the respondent-plaintiff had filed an application for leading additional evidence, for examination of handwriting and fingerprint expert, as a witness for the comparison of signatures of Harmeet Singh on disputed agreement.

After seeking reply and on hearing counsel for the parties, vide impugned order dated 07.08.2018, the said application was allowed.

Being aggrieved, the petitioners-defendants has filed the revision petition in hand.

At the very outset, now it is submitted by learned counsel for the petitioners that the respondent-plaintiff had closed his evidence on 22.09.2017 and thereafter, the defendants-petitioners had closed their evidence and the case was adjourned for rebuttal evidence and arguments. However, at this stage, no such application for additional evidence could be allowed, as the respondent-plaintiff had closed his evidence in affirmative and therefore, he cannot be allowed to lead evidence in rebuttal, in respect of an issue, the 'onus' of which was upon the respondent-plaintiff.

In this regard, to so strengthen his claim, learned counsel for the petitioners has placed reliance upon ***Smt. Jaswant Kaur anr. vs. Devinder Singh and ors. (D.B.) 1984(1) ILR (Punjab) 97, National Fertilizers Ltd., Bathinda vs. Municipal Committee, Bathinda, 1982 PLR 322, Jagdev Singh vs. Darshan Singh, 2007(1) RCR (Civil) 794 and Avtar Singh vs. Baldev Singh, 2015(5) RCR (Civil) 625.*** In fact, on the basis of the aforesaid decisions, it is emphatically summed up that when the

respondent-plaintiff had closed his evidence in affirmative, he could not be allowed to lead evidence, the 'onus' of which issue, was upon him. In the maximum, it could have been led, before the other party began the evidence.

On the other hand, learned counsel for the respondent submits that the application is for additional evidence and it is not asserted about the evidence to be led in rebuttal evidence.

Even though, plethora of case law has been cited by learned counsel for the petitioners-defendants, but however, there is no dispute about the law settled in the aforesaid case law. However, the facts of the case in hand, are distinguishable from the controversy, which was adjudicated in the aforesaid case law. In this regard, it is pertinent to mention that in view of the claim of the agreement to sell, having executed, at the instance of Harmeet Singh, as asserted in the plaint, a specific plea was taken in the written statement that the said agreement was never executed and Harmeet Singh had never received any earnest money. Besides the same, it was asserted that the agreement to sell dated 30.12.2008 is forged and fabricated and does not bear the signatures of Harmeet Singh.

Considering these pleadings of the parties, the issues, as detailed aforesaid, are not happily framed. No specific issue, with regard to agreement in question, to be forged and fabricated has been framed. Had this issue been framed, the onus of proving of the same, would be upon the defendants and had it been so framed, then the question of filing of any application, as now filed, would never have arisen, as there would have been an opportunity provided/availed by the respondent-plaintiff to lead evidence in rebuttal to the evidence led by the petitioners-defendants.

However, such an issue has not been framed. There is lapse on the part of the trial Court and therefore, considering the same, it is pertinent to note that the finding with regard to the legality and validity of the questioned agreement has to be and shall be adjudicated by the trial Court, at the final stage.

In the given circumstances, when there was lapse, on the part of the trial Court, in not framing the appropriate issue, the respondent-plaintiff, as such, cannot be deprived of an opportunity to lead evidence, which he could have been able to lead, had the issue been properly framed. Thus, it has to be considered that principles of procedural law are handmaid to justice. No party can be denied the right to examine any witness, on the mere ground that this evidence that the party could have adduced, at that time, when he was adducing affirmative evidence. Such blanket rule, can never be followed.

The facts and circumstances in the individual case, have to be considered to decide as to how the provision of the Code are to be applied to do substantial justice between the parties. In the additional evidence, the respondent-plaintiff intended to bring on record the report furnished by the handwriting and fingerprint expert, examined in another case, in which mother of Harmeet Singh was also a party and in this case, photochart of disputed and standard signatures of Harmeet Singh was also there.

Considering the aforesaid circumstances of the case, this Court, as such, do not consider that solely, on account of the case, having come at the rebuttal stage, this application should be shut out, on account, that this evidence, could not be led, in view of issue No.1 framed by the trial Court.

However, while framing issues, as observed aforesaid, amiss was given by the trial Court to the framing of the issue, relating to the agreement in question to be forged and fabricated, wherein, an opportunity of rebuttal would have been otherwise also available to the respondent-plaintiff.

Considering the gravity of the facts and circumstances of the case, in my considered view, the trial Court has not fallen into error, in allowing the application for additional evidence. Hence, the impugned order warrants no interference. As such, the revision petition is hereby dismissed.

September 05, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No