

CR-4014-2022

1

2025:PHHC:147156



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CR-4014-2022

Date of decision : 28.10.2025

Davinder Singh

... Petitioner

Versus

Gurvinder Kaur and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Rishabh Gupta, Advocate
for the petitioner.

Mr. Sumit Sinha, Advocate
for the respondents.

VIKAS BAHL, J.(ORAL)

1. This is a Civil Revision Petition filed under Article 227 of the Constitution of India for setting aside the impugned order dated 31.08.2022 (Annexure P-8) vide which the application filed by the petitioner-plaintiff for examining expert witness in rebuttal evidence has been dismissed and order dated 06.09.2021, vide which the trial Court has fixed the case for final arguments, without affording an opportunity of hearing to the petitioner to lead evidence in defence to the counter-claim set up by the respondents/defendants.

2. On 20.09.2022, a Co-ordinate Bench of this Court was pleased to pass the following order:-

2025:PHHC:147156



*“Present: Mr. Rishabh Gupta, Advocate
for the petitioner.*

Prayer in this petition is for setting aside the order dated 31.08.2022, vide which the application filed by the petitioner/ plaintiff for examination of an expert in rebuttal evidence has been dismissed as well as the order dated 06.09.2021, vide which the trial Court has fixed the case for final arguments, without affording an opportunity of hearing to the petitioner to lead evidence in defence to the counter-claim set up by the respondents/defendants.

Learned counsel for the petitioner submits that the petitioner/ plaintiff has filed a suit for declaration that the petitioner/ plaintiff is owner in possession of the suit property, in which the defendants have set up a counter-claim.

Learned counsel for the petitioner further submits that after the issues were framed, onus to prove some issues were placed upon the plaintiff, whereas onus to prove some issues were placed on the respondents/defendants and with regard to one issue, the onus was on the counter-claimants and onus of issue No. 8, regarding maintainability of the counter-claim, was on the petitioner/plaintiff, therefore, when the evidence of the defendants was closed, the petitioner had a right to lead rebuttal evidence with regard to issue, onus of which was on the counter-claimants, however, the trial Court, after closing the evidence, has straightway fixed the case for arguments, which is not a correct procedure.

Notice of motion for 07.12.2022.

In the meantime, the trial Court is directed to adjourn the case beyond the date fixed before this Court.

20.09.2022”



3. Learned counsel for the petitioner has submitted that only one effective opportunity be granted to the petitioner to lead rebuttal evidence as it is the respondents, who had filed the counter claim and the plaintiff for all intents and purposes was the respondent in the said counter claim.
4. Learned counsel for the respondents has submitted that in case one opportunity is to be granted, then, adequate costs be imposed upon the petitioner.
5. Learned counsel for the petitioner has fairly submitted that in view of the said objection, the petitioner is ready to pay Rs.15,000/- to the respondents.
6. Keeping in view the above said facts and circumstances and the fair stand taken on behalf of the learned counsel for the petitioner as well as learned counsel for the respondents, the present petition is partly allowed and the impugned orders dated 31.08.2022 and 06.09.2021 are set aside and one last effective opportunity, at own responsibility, is granted to the petitioner to lead rebuttal evidence and the same would be subject to the petitioner depositing costs of Rs.15,000/- within a period of two weeks from today, which would be released to respondents no.1 to 3 in equal proportion i.e., Rs.5000/- each.

(VIKAS BAHL)
JUDGE

October 28, 2025.

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No