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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **FAO(OS) 31/2025, CM APPL. 12789/2025 (Delay of 70 days in filing the appeal) & CM APPL. 12790/2025 (Stay)**

SANJEEV MAHESHWARIAppellant
Through: **Mr. Rajesh Goswami,**
Advocate.

versus

M/S. MAHESHWARI PHARMACEUTICALS (I) LTD. AND
ORSRespondents
Through: **Mr. Atul Nigam, Ms. Tanvi**
Nigam and Ms. Lubhanshi
Tanwar, Advocates for
Respondent Nos. 1 to 5.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR

ORDER
30.10.2025

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1. The present Appeal has been filed under Section 10 of the Delhi High Court Rules read with Section 151 of the Civil Procedure Code, 1908, against the order dated 15.07.2024 passed by the learned Single Judge in CS(OS) No. 820/2015.
2. The Appellant assails the correctness of impugned order passed by the learned Single Judge on 15.07.2024, while refusing opportunity to the Appellant/Plaintiff to examine two witnesses to the Memorandum of Understanding [“MoU”] in his rebuttal evidence.
3. The Appellant/Plaintiff had filed a suit for cancellation of the instrument of transfer of 1,92,500 equity shares or in alternative to pass a money decree in favour of the Appellant/Plaintiff and against the Defendant No. 2 to 5 for an amount of Rs. 4,16,28,964/- towards



acquisition of 1,92,500 equity shares and interest of Rs. 61,57,464/- for the period from 19.03.2014 till filing of the suit i.e. 05.03.2015 alongwith *pendente lite* interest and future interest from the date of filing of the suit till its realization of the full and final claimed amount.

4. Upon examination of pleadings the following issues were framed on 17.08.2016:-

“CS (OS) 820/2015

7. After hearing learned counsel for the parties, the following issues are framed:

(i) Is the Plaintiff entitled to a decree of cancellation of instrument of transfer in terms of which 1,92,500 shares of the Plaintiff in Defendant No. 1 were transferred to Defendant Nos. 2 to 5 and to the restoration of the name of the Plaintiff as shareholder in respect of said shares? OPP

(ii) Is the Plaintiff entitled to recover Rs.4,16,28,964 from the Defendant Nos. 2 to 5 towards acquisition of 1,92,500 equity shares of Defendant No. 1 together with interest for a period from 19th March, 2014 till the date of filing of the suit and *pendente lite* and future interest from the date of filing of the suit till the date of its realisation @ 18 % per annum? OPP

(iii) Is the Plaintiff entitled to recover Rs. 19,29,380 towards statutory dues inclusive of interest @ 18% per annum from 19th March, 2014 till the date of filing and further *pendente lite* and future interest @ 18% p.a. from the date of filing of the suit till its realisation? OPP

(iv) Has the Plaintiff been able to prove that the value of one equity share of Defendant No. 1 as on 11th March, 2014 was Rs.209.30? OPP

(v) Relief.”

5. The Plaintiff was granted sufficient opportunity to lead his affirmative evidence, which was closed by him. Subsequently, Defendant led its defence evidence. Thereafter, when the matter came up for further hearing, the Plaintiff wanted to examine two witnesses



of MoU which has been declined.

6. The scope of rebuttal evidence has been explained by a Division Bench of Punjab and Haryana Court in ***Surjit Singh & Ors. vs. Jagtar Singh & Ors.***¹ in the following manner:-

“32. In our opinion, Order 18 Rule 3 of the CPC would not give a right to the plaintiff to lead evidence in rebuttal on issues in which the onus of proof is on the plaintiff. Accepting such an interpretation would be to ignore a vital part of Order 18 Rule 3 of the CPC. The rule clearly postulates that “the party beginning, may, at his option, either produce his evidence on these issues or reserve it by way of answer to the evidence produced by the other parties”. No matter, how liberally a provision in the statute is required to be interpreted, by interpretation it cannot be amended. Whilst construing a statutory provision the Court cannot reconstruct it. The rule consciously provides the parties with an option either to produce the evidence in support of the issues or to reserve it by making a statement to that effect. The statement itself may well be liberally construed to avoid any unnecessary technical obstacles. One such example has been given by the Division Bench in the case of *Smt. Jaswant Kaur* (supra). It has been held that if a statement is made by the Advocate for the plaintiff that “the plaintiff closes its evidence in the affirmative only,” the same would be read to mean that the plaintiff had reserved its right to lead evidence in rebuttal. We are, therefore, unable to agree with the observations made by the learned Single Judge in the case of *Kashmir Kaur* (supra) that he is entitled to lead evidence in rebuttal as a matter of right. In our opinion, this observation runs contrary to the observations of the Division Bench in *Jaswant Kaur's case* (supra). The Division Bench has even fixed the maximum time on which the plaintiff has to exercise his option to reserve the right to

¹ 2006 SCC Online P&H 1334



lead evidence in rebuttal. It has been clearly held that such a reservation has to be made at the time of the close of the evidence of the plaintiff. We are also unable to agree with the observations of the learned Single Judge in the case of *Punjab Steel Corporation* (supra). In that case the plaintiff sought to lead evidence in rebuttal, after the close of the evidence of the defence. At that stage, the plaintiff cannot be permitted to reserve the right to lead evidence in rebuttal. The observations of the learned Single Judge run contrary to the law laid down by the Division Bench in the case of *Smt. Jaswant Kaur* (supra). No doubt, the Division Bench clearly lays down that an overly strict view cannot be taken about the modality of reserving the right of rebuttal. But at the same time, it has been held that the last stage for exercising option to reserve the right of rebuttal can well be before the other party begins its evidence. We are in respectful agreement with the aforesaid observations of the Division Bench in the case of *Jaswant Kaur* (supra) and *R.N. Mittal, J., in National Fertilizers Ltd.* (supra).”

7. It is evident that onus to prove all the issues was upon the Plaintiff. Hence, the Plaintiff cannot be granted opportunity to lead rebuttal evidence with respect to issues the onus whereof was on him.

8. The Plaintiff can be granted opportunity to lead rebuttal evidence only with respect to issues onus whereof is upon the Defendant.

9. Keeping in view the aforesaid discussion, no ground to interfere.

10. The present Appeal along with pending application(s), if any, stands dismissed.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.
OCTOBER 30, 2025/nd/rou