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

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Civil Revision No.261 of 2025
Date of decision: February 17th, 2026

Gajraj Singh and another

.....Petitioners

Versus

Ashok and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Mohit Garg, Advocate
for the petitioners.

Mr. Sumit Sangwan, Advocate
for the respondents.

VIKAS BAHL, J. (ORAL)

1. This is a civil revision petition under Article 227 of the Constitution of India for setting aside the order dated 09.01.2025 passed by trial Court, vide which the application filed by the petitioners for the examination of the fingerprint expert has been dismissed.

2. The plaintiffs/petitioners had filed a suit for declaration by relying upon the family settlement which was allegedly arrived at in the year 2002 and regarding which there was a writing dated 26.12.2002. The said suit was filed in the year 2019. In the written statement filed by the contesting respondents No.1 and 2/defendants No.1 and 2, it was denied that any such family settlement ever took place and it was stated that no such family settlement was ever signed by the answering defendants or other legal heirs and the said alleged family settlement was never reflected in the revenue records as contemplated under Section 123 of the Punjab Land



Revenue Act, 1887.

3. It is not in dispute that the plaintiffs have led their evidence and in spite of the above stand taken by the contesting respondents No.1 and 2/defendants No.1 and 2, no fingerprint expert had been examined by the petitioners and it was only when the case was fixed for rebuttal and arguments that an application (Annexure P-4) was filed by the petitioners to examine the fingerprint expert in rebuttal evidence. The said application was opposed by the respondent No.1 by filing a reply (Annexure P-5) in which it had been stated that the signatures on the alleged family settlement had been denied by the contesting respondents from the beginning and the plaintiffs had availed as many as 14 opportunities from 18.05.2022 to 08.09.2023 and when the case was at the fag end, the present application had been filed, which was not maintainable.

4. The trial Court vide order dated 09.01.2025 has rejected the said application by observing that the same has been filed at the fag end, when the case is fixed for rebuttal and arguments and that at that stage, no evidence which the plaintiffs should have led in the affirmative could be allowed to be led. It has also been noticed that the original alleged family settlement dated 26.12.2002 has not been produced on record and that the report which has been prepared by the plaintiffs of a handwriting expert has been prepared without the permission of the Court.

5. Learned counsel for the petitioners has submitted that the petitioners had moved an application to examine a fingerprint expert in rebuttal evidence and in case the witness who has already prepared the report is not acceptable, since the permission was not taken from the Court,



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then, the petitioners would be satisfied in case the petitioners are permitted to examine a fresh fingerprint expert in rebuttal evidence after due permission is granted. It is submitted that the signatures of the defendants on the said family statement are necessarily required to be proved in the present case. It is thus prayed that the impugned order be set aside and the application filed by the petitioners be allowed.

6. Learned counsel for the respondents, on the other hand, has opposed the present petition and has submitted that as per the law laid down by the Division Bench of this Court in *Civil Revision No.2203 of 2010* titled as *Avtar Singh and another Versus Baldev Singh and others* decided on 21.11.2014, it is only with respect to the issues the onus of which is on the defendants and regarding which the plaintiffs have specifically reserved their right at the time of closing of their evidence or at a stage prior to the defendants starting their evidence, that rebuttal evidence could be permitted and in the present case, the petitioners have not been able to highlight any issue the onus of which was on the defendants regarding which the plaintiffs/petitioners wish to lead rebuttal evidence. It is submitted that it was the stand of the contesting respondents in the written statement that the said alleged family settlement was not signed by the respondents and thus it was incumbent upon the plaintiffs to lead affirmative evidence with respect to the same. It is further submitted that there is nothing on record to even show that the plaintiffs had reserved their right to lead rebuttal evidence. It is further submitted that the present petitioners/plaintiffs had earlier also filed a civil suit on 07.10.2015 which was dismissed on 29.03.2023 and in the said case also, reliance was placed upon the said alleged family settlement which



was not believed. It is submitted that the petitioners are unnecessarily trying to delay the proceedings.

7. The Division Bench of this Court in the case of ***Avtar Singh and another (supra)***, while answering the reference having been made to the Division Bench, held that the plaintiff has an option to lead his entire evidence on all the issues and in case he intends to lead rebuttal evidence or answer the evidence that is led by the defendant with respect to the issues the onus to prove of which is upon the defendant, then, he shall reserve his right with respect to the same and the said reservation of right has to be either when he closes evidence in affirmative or in any case before the other party begins his evidence and in case he fails to reserve such right in terms of the provisions of Order 18 Rule 3 CPC, then his right to lead evidence in rebuttal would stand forfeited. The relevant portion of the said judgment is reproduced hereinbelow:-

“Question No.1 i.e. whether it is mandatory for the trial court to provide an opportunity to the plaintiff to lead evidence in rebuttal only in those cases where he had reserved his right of rebuttal?”

6. Division Bench of this court in ***Surjit Singh's case (supra)***, while relying upon a decision of an earlier Division Bench in ***Jaswant Kaur and another v. Devinder Singh, AIR 1983 Punjab and Haryana 210 (DB)*** and a Single Bench in ***National Fertilizers Ltd. v. Municipal Committee, Bhatinda and another, AIR 1982 Punjab and Haryana 432(1)***, crystallized the true import of the provisions of Order 18 Rule 3. And the principle of law that has been enunciated is that plaintiff has the option to lead his entire evidence on all the issues, and in case, he intends to lead rebuttal evidence or answer the evidence that is to be led by the defendant, as regards the issues the onus of proof of which is upon the defendant, he shall have to reserve his right. Further, he shall have to exercise his option either when he closes his evidence in affirmative or in any case before the other party begins its evidence. But if he fails to reserve any such right, in terms



of the provision of Order 18 Rule 3 CPC, his right to lead evidence in rebuttal would stand forfeited.

Question No.2 i.e. whether plaintiff can independently lead evidence in rebuttal over such issues, the onus of which is purely on the defendant?

*From a plain reading of the provisions of Order 18 Rule 3 CPC and the principle of law enunciated by the Division Bench in **Surjit Singh's case** (supra), it is axiomatic that in a case, where there are several issues, and the burden of proof some of which lies upon the defendant, plaintiff who is conscious to the lis and alive to the matter in issue, he can adduce his evidence in entirety vis-a-vis all the issues including those onus of proof of which is upon the defendant. Or having led the evidence in affirmative, as regards the issues, the onus of proof of which is upon the plaintiff himself, he can reserve his right to lead evidence in rebuttal. Needful to assert, leading evidence in rebuttal is also a part of the plaintiff's evidence. Whether he leads it in one go qua all the issues and close his evidence or reserve his right to lead rebuttal evidence."*

8. From the abovesaid judgment, it is apparent that the right of rebuttal to the plaintiffs-petitioners would be with respect to issues on which the onus is on the defendants and the said right will have to be specifically reserved at the time of closing the evidence in affirmative or at the stage prior to which defendants lead their evidence. In case no such right is reserved, then the said right is forfeited.

9. The law laid down in the abovesaid judgment fully applies in the present case, for upholding the impugned order, inasmuch as learned counsel for the petitioners has not been able to point out any issue the onus of which was on the defendants, in rebuttal to which the petitioners could be permitted to lead evidence with respect to the alleged family settlement dated 26.12.2002 which was relied upon by the petitioners themselves in their plaint. It would also be relevant to note that the contesting defendants No.1 and 2 had in their written statement specifically denied their signatures



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on the alleged family settlement and had further stated that the said alleged family settlement was never reflected in the revenue record as contemplated under Section 123 of the Punjab Land Revenue Act, 1887 and thus, it was incumbent upon the plaintiffs to have led all evidence in the affirmative to prove the said alleged family settlement. Moreover, learned counsel for the petitioners has not been able to refer to the specific order at the time of closing of their evidence or prior to the evidence of the defendants had started to show that the petitioners had reserved their right to lead rebuttal evidence on the issue, of which, the onus is on the defendants. Additionally, it would be relevant to note that even the original family settlement is not on record as has been observed by the trial Court.

10. The Hon'ble Supreme Court in the case of ***Shalini Shyam Shetty and another Vs. Rajendra Shankar Patil*** reported as ***(2010) 8 Supreme Court Cases 329***, had observed that the High Courts cannot, at the drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or courts inferior to it. Nor can it, in exercise of this power, act as a court of appeal over the orders of court or tribunal subordinate to it. It was also observed in the said judgment that a statutory amendment with respect to Section 115 of the Civil Procedure Code does not and cannot cut down the ambit of High Court's power under Article 227 but at the same time, it must be remembered that such statutory amendment does not correspondingly expand the High Court's jurisdiction of superintendence under Article 227. The power of interference under this Article is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and



unpolluted in order to maintain public confidence in the functioning of the tribunals and courts subordinate to the High Court. It was also observed that the power under Article 227 may be unfettered but its exercise is subject to high degree of judicial discipline.

11. Keeping in view the above, this Court is of the opinion that the impugned order does not call for any interference by this Court while exercising its powers under Article 227 of the Constitution of India and accordingly, the impugned order is upheld and the present revision petition being meritless, deserves to be dismissed and is accordingly dismissed.

February 17th, 2026
Puneet

(VIKAS BAHL)
JUDGE

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