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

CR-2589-2023

Date of decision : 03.02.2026

M/S MADAN LAL SHIV KUMAR AND ORS.

....Petitioners

Versus

PARGAT SINGH AND ANR

....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Jagdish Manchanda, Sr. Advocate with
Mr. Devyansh, Advocate and
Mr. Vipul Thakur, Advocate
for the petitioners.

Mr. Ashish Gupta, Advocate
for respondent No.1.

PANKAJ JAIN, J. (ORAL)

Plaintiffs are in revision.

2. Plaintiffs filed suit for recovery of Rs.43,00,000/- against the defendants/respondents.

2.1. As per the plaintiffs, amounts were advanced to the defendants at various times owing to their business relationship. The defendants used to sell their agriculture produce through plaintiff-firm. Every year, the sale proceeds were adjusted and the balance was carried forward. The claim of the plaintiffs is based upon *Bahi* entries which are claimed to have been signed by the defendants.



3. Suit was contested by the defendants, who disputed the entries and claimed that the same were false, fake and bogus. Defendants denied their signatures on the same.

4. Trial Court framed the following issues:

1. Whether the plaintiffs are entitled to decree for recovery of Rs.43,00,000/- alongwith pendente lite and future interest @ 18% per annum with costs? OPP
2. Whether the suit of the plaintiffs is not legally maintainable? OPD
3. Whether the plaintiffs have no locus standi and cause of action to file present suit? OPD.
4. Whether the plaintiffs are estopped from filing present suit by their own act and conduct? OPD
5. Whether suit of the plaintiffs is time barred? OPD
6. Whether the plaintiffs have not valued the suit property for the purpose of Court fee and jurisdiction? OPD
7. Whether the suit of the plaintiff is bad for non-joinder and mis-joinder of necessary parties? OPD
8. Whether the plaintiffs have not come to the Court with clean hands and suppressed true material facts? OPD
9. Relief.

5. Both the parties led their evidence to prove their case. In rebuttal, plaintiffs moved present application seeking permission to examine the handwriting expert.

6. The application has been dismissed by the Trial Court, holding that the plaintiff cannot be allowed to examine handwriting expert in rebuttal evidence.



7. Learned Senior Counsel appearing for the plaintiffs submits that the Trial Court erred in rejecting the application filed by the plaintiffs. The evidence sought to be produced in rebuttal is material evidence which shall aid the Court to adjudicate the *lis* effectively.

8. I have heard counsel for the parties and have carefully gone through records of the case.

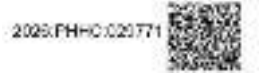
9. The right of the party to lead rebuttal evidence under Order XVIII Rule 3 CPC is in no more *res integra* and has been answered by a Division Bench of this Court in the case of **Surjit Singh and others vs. Jagtar Singh and others, 2007(1) RCR(Civil) 537**, observing as under:

“15. In our opinion, Order 18 Rule 3 of the Civil Procedure Code 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 Civil Procedure Code. 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 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 M/s 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)."

10. Ld. Senior Counsel is not in position to dispute that the onus to prove *Bahi* entries was upon the plaintiffs. They were required to prove the same by leading evidence in affirmative.



11. In view of above, this Court finds no reason to interfere in the order passed by the Trial Court. Finding no merit in the present revision petition, the same is ordered to be dismissed.

February 03, 2026					(Pankaj Jain)
Dpr					Judge
	Whether speaking/reasoned	:		Yes/No	
	Whether reportable	:		Yes/No	