



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

172

CR-8797-2025

Date of decision:12.01.2026

GURINDER SINGH

...PETITIONER

VERSUS

JATINDER SINGH AND OTHERS

...RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL**

Present: Mr. A.S. Gill, Advocate  
for petitioner.

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**PARMOD GOYAL, J. (ORAL)**

Petitioner is aggrieved by impugned order dated 11.11.2025 (Annexure P-10) vide which his application u/o XVIII Rule 3 of Code of Civil Procedure, 1908 seeking to serve handwriting expert to submit his report as expert witness in rebuttal evidence was dismissed.

2. Admittedly, petitioner had filed a suit for specific performance seeking specific performance of agreement dated 30.07.2015 (Annexure P-5) and subsequent acknowledgment of agreement dated 04.08.2015 (Annexure P-6). Respondent Nos.1 to 4 contested the suit and claimed agreement to be forged and fabricated. Due opportunity was granted to petitioner to lead entire evidence and thereafter respondent No.1 also appeared in witness box and reiterated his claim that agreement was forged and fabricated and in cross-examination he denied his signatures and thumb impression on agreement to sell. On the basis of denial by respondent No.1, petitioner has sought to seek rebuttal evidence.

3. It is worth noticing that after completion of pleadings, following issues were framed by the Court of first instance:-

- a. Whether the plaintiff is entitled to the relief of decree of possession by way of specific performance as prayed for?  
OPP
- b. Whether the plaintiff is entitled to the relief of permanent



injunction as prayed for?OPP

- c. Whether the plaintiff is entitled to the relief of recovery as prayed for?OPP
- d. Whether the suit of the plaintiff is not maintainable?OPD
- e. Relief.

4. It is worth noticing that onus to prove issues No.1 to 3 was upon petitioner and onus to prove prove fourth issue i.e. whether suit of petitioner is not maintainable was upon respondents. No evidence has been led by respondents as regard to issue No.4, onus of which was upon respondents. Therefore, any application to lead expert witness in rebuttal evidence cannot be allowed in facts and circumstances of the present case, as no affirmative evidence can be adduced in the garb of rebuttal evidence.

5. The right to rebut evidence led by respondents vests in petitioner only in case where onus of issue is upon respondents and to discharge said onus respondents have lead evidence before the Court. In case, no evidence is lead or where no onus is upon respondents, petitioner has no right to adduce evidence in rebuttal though he may have right to lead evidence in affirmative at first instance. The scheme of law is simple and based upon principle of natural justice. On completion of pleadings issues are framed and thereafter it is determined as to who has to discharge onus of issues so framed. Thereafter, petitioner is given opportunity to prove his case and once evidence is led by petitioner, opportunity is granted to respondents to counter evidence led by petitioner and in case respondents lead any evidence on issue, onus of which is on respondents then petitioner is given opportunity to rebut said evidence. In case petitioner is allowed to lead evidence in rebuttal and examine handwriting expert then respondents would be taken by surprise and will not have any



opportunity to rebut the evidence led by petitioner in rebuttal which is against the scheme of Civil Procedure Code and also against principles of natural justice. Parties leading evidence to prove their onus must give opportunity to other side to rebut it. If such application is allowed, the opportunity vested in respondents would be taken away and respondents would be condemned unheard, which cannot be allowed.

6. Learned Court of first instance vide impugned order dated 11.11.2025 has rightly concluded that no evidence in rebuttal can be adduced as being sought by petitioner.

7. Faced with above conclusion, learned counsel for petitioner has placed reliance upon following judgments:-

- a) **Smt. Kanwaljit Kaur Bedi versus Paramjit Singh Sawhney and Others**, CR No.7048-2017 decided on 23.09.2019.
- b) **Manpreet Kaur and anr. Versus Rupinder Heer Gill and Ors.**, CR No.5068-2022 decided on 01.07.2024.

Both the judgments however, are not applicable to facts and circumstances of present case. In the first judgment, issue was regarding validity of will, onus of which was upon defendant and therefore, after defendant's evidence rebuttal, evidence to prove that will was not genuine was rightly allowed. However in present case onus to prove validity of sale agreement was upon petitioner and no evidence has been led by respondents on any issue wherein the onus was upon respondents. Similarly in second judgment, rebuttal evidence was allowed after defendant had examined expert witness in defendant's evidence to rebut the evidence lead by defendant. However, in present case no expert witness has been examined by respondents and therefore judgment titled as **Manpreet Kaur and anr.** (supra) is also not applicable to the facts of present case. Petitioner has no right to lead rebuttal evidence in facts and



circumstances of case.

8. Revision petition is accordingly dismissed. It is however, made clear that in case appropriate application for additional evidence is filed by petitioner, same be decided in accordance with law.

9. Pending application(s), if any, stand disposed of.

(PARMOD GOYAL)  
JUDGE

12.01.2026  
Sunil Chander

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