

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

111

CR-1021-2025

Judgment Reserved on 07.08.20255
Judgement Pronounced on 12.08.2025

THE DALANWAS MILK PRODUCE CO-OPERATIVE SOCIETY
LIMITED

... APPELLANT

VERSUS

DIRECTOR HARYANA DAIRY DEVELOPMENT AND ORS.

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Vikram Singh, Advocate and
Mr. Abhinav Sood, Advocate
for the petitioner.

Mr. Birender Bikram Attrey, Addl. A.G., Haryana.

PARMOD GOYAL, J. (ORAL)

1. Petitioner is aggrieved by the impugned order dated 14.01.2025 (Annexure P-4) vide which his application for tendering documents in rebuttal evidence was dismissed.
2. Petitioner/applicant/plaintiff vide his application for leading evidence in rebuttal, has requested that he be allowed to place on record resolution dated 20.07.2015 vide which Bhupender Singh (plaintiff/Secretary of the society) has been authorized to file the present suit. It is asserted that resolution could not be tendered inadvertently and, therefore, now petitioner/plaintiff be allowed to tender the same in rebuttal evidence. The said application preferred by applicant/petitioner/plaintiff was opposed by the respondents on the ground that way back on 25.10.2017, plaintiff had moved an application under Section 151 C.P.C. for leading additional evidence, which was dismissed vide order dated

14.02.2023. In the said application also plaintiff had sought to adduce resolution dated 20.07.2015 in additional evidence. It is asserted that now at the stage of rebuttal, the evidence which has been disallowed, cannot be permitted to be adduced.

3. In order to appreciate whether plaintiff-petitioner is entitled to lead evidence in rebuttal, it is necessary to see issues framed by the Court of first instance. Following seven issues were framed by learned Court of first instance:-

- “(1) Whether the plaintiff is entitled to a decree for contract Act 73 as prayed for? OPP*
- (2) Whether the plaintiff has no cause of action to file the present suit? OPD*
- (3) Whether the suit is not maintainable in the present form? OPD*
- (4) Whether the plaintiff has not come with clean hands before this Court? OPD*
- (5) Whether the plaintiff has concealed the true and material facts from the court? OPD*
- (6) Whether the plaintiff is estopped from filing the present suit by his own act and conduct? OPD*
- (7) Relief.”*

4. Rebuttal evidence can only be led where onus to prove one of the issues is upon the defendant and defendant has led any evidence in that regard. None of the above-noted conditions to lead rebuttal evidence by petitioner are made out in present case.

5. Learned counsel for the petitioner has fairly admitted that no evidence has been led on the issues where the onus of proof was upon defendant.

6. Moreover, in the present case, once plaintiff has failed in his attempt to lead evidence in affirmation and his application for additional evidence filed in 2017 dismissed in 2023 has attained finality, it is not open for plaintiff-petitioner to now lead said evidence by way of rebuttal evidence, as plaintiff has failed to

lead this evidence in affirmation as well as by way of additional evidence. It is to be noticed that suit was filed in 2015. The resolution being sought to be placed on record ought to have been filed along with the suit. However, in the present case, even at the stage of plaintiff's evidence, the resolution was not placed on record and plaintiff had failed to make out a case for additional evidence and order declining additional evidence has attained finality. In these circumstances, same evidence which plaintiff has failed to lead as noted above, cannot be allowed to be led by way of rebuttal evidence.

7. There is no merit in the petition. The same is accordingly dismissed.

12.08.2025
manoj

(PARMOD GOYAL)
JUDGE

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