

2025:PHHC:083402



189 IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CR-4416-2019 (O&M)  
Decided on:-10.07.2025

Shri Dadu Dayalu Maha Sabha Jaipur (Trust) ....Petitioner..

vs.

Arvind Swami and others ....Respondents.

**CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA**

Present: Mr. Harshit Kataria, Advocate for  
Mr. Ashwani Bakshi, Advocate for the petitioner.

Mr. Dinesh Arora, Advocate for respondents No.2 to 16.

\*\*\*\*\*

**HARKESH MANUJA J. (Oral)**

1. By way of present revision petition, challenge has been laid to an order dated 31.05.2019 passed by the learned Civil Judge (Junior Division), Rohtak, whereby, an application made on behalf of the petitioner-plaintiffs for restricting the claim of defendants No.2 to 16 to lead rebuttal only to the additional evidence led at the instance of petitioner-plaintiffs, was disposed of.

2. Briefly stating, the petitioner-plaintiff filed a suit for declaration against respondents-defendants. Upon framing of issues, the petitioner-plaintiff as well as respondent No.1-defendant No.1 led their respective evidence, however, the evidence of respondents No.2 to 16 was closed by the Court orders. Though, a challenge was laid to the same, yet, no permission was granted to respondents No.2 to 16 for leading their evidence.

3. At later stage, petitioner-plaintiff filed an application for seeking permission to lead additional evidence before the Trial Court, which came to be allowed vide order dated 06.02.2019 and in pursuance thereof,

the petitioner-plaintiff tendered documents Ex. P-854 to Ex.P-856 through the statement of their counsel. In rebuttal, respondents No.2 to 16 tendered affidavit dated 16.03.2019 of Kalu Ram (DW-10) and the matter was posted for his cross-examination. In the meanwhile, the petitioner-plaintiff moved an application before the Trial Court for restricting the rebuttal to be made by respondents No.2 to 16 only to the additional evidence led by the petitioner-plaintiffs. The said application came to be disposed of vide impugned order dated 31.05.2019. Aggrieved thereof, the petitioner-plaintiff filed the present petition.

4. Learned counsel for the petitioner while referring to affidavit dated 16.03.2019 submitted by Kalu Ram (DW-10) regarding his examination-in-chief contends that the same is in fact reiteration of the written statement filed on behalf of respondents No.2 to 16, which cannot be permitted as respondents No.2 to 16 were allowed to merely rebut the additional evidence led by the petitioner-plaintiff and not to go beyond or lead evidence in affirmative to support their defence in the written statement and as such, the affidavit of the witness was required to be taken of the record.

5. On the other hand, learned counsel representing respondents No.2 to 16 while referring to the impugned order submits that the Court below has disposed of the application by making specific observations that in case the evidence of Kalu Ram (DW-10) falls outside the purview of rebuttal to the additional evidence, the same shall be discarded at the final stage and thus, no interference was called for in the present revision petition.

6. I have heard learned counsel for the parties and gone through the paper book.

7. Undoubtedly, the affidavit regarding examination-in-chief filed at the instance of Kalu Ram (DW-10), is reiteration of the written statement which apparently travels beyond the permission granted by the Trial Court vide its order dated 06.02.2019, whereby the only permission granted in favour of respondents No.2 to 16 was to rebut the additional evidence led by the petitioner-plaintiff. The Trial Court, rather than deferring the issue in hand to be adjudicated upon at the final stage, was required to deal with the same at this stage only by restricting the respondents No.2 to 16 to file the affidavit of their witness only to counter and rebut the additional evidence furnished by petitioner-plaintiff, in the form of documents Ex.P854 to Ex.P856, rather than burdening itself at the later stage, especially when there was no inherent ambiguity involved.

8. Accordingly, in view of the aforesaid discussion, the present petition is allowed and the impugned order dated 31.05.2019 passed by the learned Civil Judge (Junior Division), is ordered to be set aside, thereby, granting permission to respondents No.2 to 16 to lead their evidence by filing fresh affidavit of their witnesses relating to their examination-in-chief while restricting the contents thereof to strictly rebut the additional evidence led by petitioner-plaintiff in the form of Ex.P-854 to Ex.P856 only or else it would go contrary to the earlier orders dated 03.11.2016 and 06.02.2019 passed by the learned Trial Court which have already become final between the parties to the present petition.

9. Pending application, if any, also stands disposed of.

10.07.2025

sonika

**(HARKESH MANUJA)**  
**JUDGE**

Whether speaking/reasoned:  
Whether reportable:

Yes/No  
Yes/ No