

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Civil Revision No. 2804 of 2015

DATE OF DECISION : December 07, 2015

M/s Balbir Singh & Co.

..... PETITIONER(S)

VERSUS

Jaswinder Singh Mistri @ Bittu

.... RESPONDENT(S)

CORAM : HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Anish Setia, Advocate, for the petitioner.

...

- 1. Whether Reporters of local newspapers may be allowed to see the judgment? YES/NO**
- 2. To be referred to the Reporter or not? YES/NO**
- 3. Whether the judgment should be reported in the digest? YES/NO**

...

ARUN PALLI, J. (Oral)

Vide order being assailed, dated 06.02.2015, rendered by Civil Judge (Junior Division), Jalandhar, application moved by the plaintiff-petitioner to adduce additional evidence, had since been dismissed. The reasons assigned by the trial court in support of its order, read as thus:-

"4. Heard. Case file perused. By way of this application, applicant/plaintiff is seeking permission to

lead additional evidence for producing the sale tax and income tax returns to prove the sale made including material sold by plaintiff firm to defendant. But it is pertinent to mention here that applicant has miserably failed to give even a single reason as to why said documents were not produced and proved when he was leading evidence in affirmative. The said documents were well within his knowledge and reach but he has not produced the same for the reasons best known to him and now at the fag end of the case present application has been moved to lead additional evidence without showing any reason as to why the same has not been led when applicant/plaintiff was leading evidence in affirmative. It is a settled law that additional evidence is allowed to be led only when the evidence sought to be adduced was not within the knowledge of plaintiff/applicant or which could not be known to him in spite of due diligence, but in the instant case it has not been alleged that said documents were not within his knowledge and reach. Furthermore, he has also failed to prove that how said documents are relevant for just and proper decision of the case. Even the application is also very vague and it has not been specifically disclosed in the same as to returns of which year are to be produced and proved. Since the defendant has already led his entire evidence and has disclosed his entire defence and plaintiff has miserably failed to gave any reason as to why said documents were not produced when he led evidence in affirmative as the same were well with in his knowledge and reach at that time, so now at this stage the present application cannot be allowed as no ground is made out to allow the plaintiff to lead additional evidence. Thus without expressing any opinion on the merits of the case, I do not find any

merit in the present application and same is hereby dismissed in view of my discussion above.”

Concededly, in a suit filed by the petitioner, a decree for recovery of ₹1,36,000/- has been prayed for. The onus to prove that there, indeed, was any business relationship between the parties and the plaintiff-firm had sold certain material to the respondent, was upon the plaintiff itself. What is sought to be brought on record by way of additional evidence are certain documents pertaining to sales tax and income tax returns submitted by the plaintiff-firm. Needless to assert, the proposed evidence was well within the knowledge of the petitioner and could always be led while it adduced its evidence in affirmative. Once that is so, no such evidence could be permitted to be led by way of additional evidence. Even otherwise, the application moved by the petitioner was wholly vague, uncertain and lacked material particulars, for it was not even disclosed that the returns of which year were sought to be proved. Concededly, both the parties had already led and concluded their evidence and the matter was fixed for arguments when an application to lead additional evidence was moved.

That being so, no interference is warranted in exercise of revisional jurisdiction under Article 227 of the Constitution of India. Petition being devoid of merit is, accordingly, dismissed in limine.

DECEMBER 07, 2015
Kang

(ARUN PALLI)
JUDGE