

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.5045 of 2015

Date of Decision.11.08.2015

Balwinder Singh

.....Petitioner

Versus

Surjit Kaur and another

.....Respondents

Present: Mr. Rohit Ahuja, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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K. KANNAN J. (ORAL)

1. The plaintiff had closed his evidence and when it was his turn for rebuttal evidence, he sought for giving additional evidence and the Court had granted such a facility. The counsel appearing on behalf of the defendant says that after the amendment in the Civil Procedure Code in Order 18 Rule 17, the Court has no power to allow for any additional evidence to be brought. The counsel would refer to me a judgment of the Supreme Court in M/s Bagal Construction through its Proprietor Vs. M/s Gupta Building Material Store 2013(14) SCC 1 that if in a suit for recovery of money defence had been closed and the arguments had been heard and the matter was reserved for judgment, at that stage application filed by the plaintiff to place on record some documents and to recall a witness, the application could not be allowed even under Section 151 CPC. The Supreme Court found that the facts showed that the plaintiff had filed this application before the trial Court

in order to overcome the lacunae in the plaint, pleadings and evidence and to improve his case. During the entire trial, those documents had remained in exclusive possession of the plaintiff and there was no acceptable reason or cause which has been shown by the plaintiff as to why these documents were not placed on record by the plaintiff during the entire trial. I will not find that this judgment has laid down any law on the circumstances when additional evidence could be brought. If the Court had allowed for additional evidence to be brought, the matter must reside there. We have come by a different dispensation in the manner of dealing with revision petitions. Section 115 CPC amendment specifically provides for revision only in respect of matters which will conclude the suit if the order had been passed differently. If the order allowing for an application for additional evidence had not been passed, it could not have concluded the suit itself. If Section 115 CPC was not competent and the case came in the context of Article 227, I will restrict it only to matters which are illegal and will constitute a gross prejudice. I will think no such prejudice is caused to the defendant especially when the defendant will have a right to provide his own defence on the additional evidence which the plaintiffs gives, if he chooses so to do.

2. There is no cause for interference in the revision petition.
The revision petition is dismissed.

(K. KANNAN)
JUDGE

August 11, 2015
Pankaj*