

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No. 3172 of 2014

Date of Decision:- 13.01.2016

Manpreet Kaur

...Petitioner

Versus

Sahib Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

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

Present:- Mr. Nakul Sharma, Advocate,
for petitioner.

Mr. Sudeep Singh, Advocate,
for respondents No.1 to 6.

SHEKHER DHAWAN, J.

Present petition under Article 227 of the Constitution of India for setting aside the order dated 11.02.2014 passed by Civil Judge (Jr. Division), Khanna, whereby the application filed by petitioner for leading additional evidence was dismissed.

2. Learned counsel for the petitioner submits that application for additional evidence was filed so as to produce and prove compromise entered into between the parties and was most essential for the just decision of the case, but the trial Court declined the application for leading additional evidence vide order dated 11.02.2014. In support of his arguments reliance was placed in case titled as **Mam Raj Vs. Sabiri Devi 1998(2) RCR (Civil)**

636 P&H and Phool Chand Jain Vs. Jotri Devi Jain, 2002(1) RCR (Civil) 233 P&H and prays that the present petition be accepted.

3. While arguing on the point, learned counsel for the respondents submits that application for additional evidence was rightly declined by the Court below because the existence of compromise was outrightly denied by the respondent in the written statement. At that time the said evidence was required to be led by the petitioner so as to prove the existence and genuineness of the document (compromise) by way of affirmative evidence. Such an application for leading additional evidence cannot be allowed by way of challenging the evidence especially in view of the amended provisions Rule 17-A of Order XVIII CPC, where provisions relating to additional evidence has been deleted. Reliance was placed in case titled as K.K.Velusamy Vs. N. Palanisamy 2011 AIR SC (Civil) 1000 that under Order 18 Rule 17 evidence cannot be allowed to be led if the evidence was relevant to render just decision and its non-production earlier was for valid reason but if the additional evidence was non-genuine, the same cannot be allowed. In view of the given facts, that existence of compromise was denied at the first instance and this evidence was to be adduced at the time when party was given due opportunity to lead evidence in affirmative but that has not been done, there are no exceptional circumstances calling for additional evidence to prove that fact and the Court below has rightly dismissed the application.

4. Having considered the submissions made by learned counsel for both the parties, this Court is of the considered view that existence of compromise was denied by respondent in the pleadings itself. Thereafter issues were framed and present petitioner was allowed several adjournments

and thereafter evidence of the petitioner was closed as per statement of counsel for the petitioner before the Court below. Thereafter defendant adduced the evidence and when the case was fixed for rebuttal evidence, at that stage the present application was filed.

5. Order XVIII has been amended and Rule 17-A of CPC relating to additional evidence has already been deleted w.e.f. 01.07.2002.

6. In view of above, there is absolutely no illegality calling for interference in the order dated 11.02.2014 passed by Civil Judge (Jr. Division), Khanna by way of present revision petition and as such the present petition stands dismissed.

January 13, 2016

mohan

(SHEKHER DHAWAN)
JUDGE