

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CR No.4169 of 2016 (O&M)
Date of Decision: 19.08.2016**

Anil Shori

.....Petitioner

Vs

Deepak Shori and others

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Sarju Puri, Advocate
for the petitioner.

Mr. G.S. Bedi, Advocate
for the respondents.

RAJ MOHAN SINGH, J.

[1]. In this revision petition, petitioner has assailed order dated 09.05.2016 passed by Civil Judge (Junior Division), Shaheed Bhagat Singh Nagar whereby application for leading additional evidence by the plaintiff was allowed.

[2]. Plaintiff contended before the trial Court that he summoned one Harsh Kumar, Dealing Clerk of MC, Nawanshahr to confront the defendant with the documents which were attached by him while getting site plan of the property sanctioned from MC, Nawanshahr. When the said

witness came to the Court with the documents as summoned, learned counsel for the plaintiff was not allowed to confront the defendant with those documents on the premise that the same was not permissible under Indian Evidence Act. Thereafter, the application for additional evidence was moved by the plaintiff claiming that the conduct of the defendant can be evaluated with the additional evidence which was claimed to be very necessary for just decision of the case. Harsh Kumar-Dealing Clerk of MC, Nawanshahr was sought to be summoned to bring the sanctioning of site plans of the year 1960, 1989, 1992, 2005 and 2009 in respect of property No.B7/19 situated at Kothi Road, Nawanshahr.

[3]. The prayer was opposed by the defendants on all counts, claiming that such a prayer cannot be permitted to re-open the case for the purposes of filling lacuna in plaintiff evidence. It was asserted that no sale deed was admitted by the defendants, therefore, even if the same was produced on record, the same will not be of any help to the plaintiff.

[4]. I have considered the submissions made by the learned counsel for the petitioner to some extent.

[5]. Defendant had already appeared as DW 1. The statement of defendant would reveal that applications for sanctioning of site plans in respect of property in the year 1989,

1992 and 2005 were filed by him as a proof of ownership and he submitted TS-1 certificate along with these applications. According to the plaintiff, the facts were that the defendant by moving those applications for getting sanctioned site plans regarding the suit property had attached the sale deed on which the plaintiff has placed reliance. This fact in itself would clinch the issue and would enable the Court to pass a decision in an effective manner. This piece of evidence would be necessary for the Court to decide the controversy in a just and appropriate manner. The record of these applications with MC, Nawanshahr would be relevant to test the authenticity of the claim of the defendant. The knowledge in respect of existence of such fact prior to statement of defendant cannot be inferred so as to attract any inference against the plaintiff.

[6]. It is a settled principle that even, if something remained obscure, the same can be filled in by way of additional evidence. It is the requirement of the Court which would facilitate correct appreciation of evidence and enable the Court to arrive at just and effective conclusion.

[7]. During the course of arguments, learned counsel for the respondents appeared and brings to the notice of the Court that pursuant to the impugned order dated 09.05.2016 passed by Civil Judge (Junior Division), Shaheed Bhagat Singh Nagar,

witness namely Harsh Kumar PW-4 has already appeared before the trial Court and has already been cross examined on 25.07.2016. Since there was no stay granted in this revision petition, therefore, after cross examination of the witness, the case was adjourned for rebuttal evidence of the additional evidence for 11.08.2016. On 11.08.2016, there was no rebuttal evidence present in Court and the case was adjourned for 24.08.2016.

[8]. Having considered the submissions in the aforesaid background, this Court is of the considered view that the order dated 27.01.2016 refusing to confront the defendant with the documents will not come in the way of appreciating the controversy in correct perspective so as to decide the case in an effective manner.

[9]. The filing of applications for sanctioning of site plans in respect of suit property in the year 1989, 1992 and 2005 remained an admitted fact as the same were filed as a proof of ownership along with TS-1 certificate. The factum of sale deed even if not admitted by the defendant would be appreciated after receipt of such additional evidence by the plaintiff and would enable the Court to decide the controversy to the hilt.

[10]. Since the additional evidence has already been received by the trial Court and PW 4-Harsh Kumar has already

been examined and cross examined by the trial Court on 25.07.2016, therefore, in considered opinion of this Court, no indulgence can be granted to the petitioner at this stage, Therefore, the impugned order is not faulted with any jurisdictional error, nor the same can be termed as perverse. This revision petition is accordingly dismissed.

19.08.2016
Prince

(RAJ MOHAN SINGH)
JUDGE

Whether Reasoned/Speaking	Yes/No
Whether Reportable	Yes/No