

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

Civil Revision No. 6955 of 2015

Date of Decision: 07.01.2016

Joginder Kaur

.....Petitioner

Versus

Prem Chand (deceased) through his LR's and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

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?

Present:- Mr. H.S. Thiara, Advocate,
for the petitioner.

Mr. R.K. Singla, Advocate
for LR's of respondent No.1.

SHEKHER DHAWAN, J

Present revision petition under Article 227 of the Constitution of India for setting aside order dated 07.09.2015, passed by learned Addl. Civil Judge (Sr. Divn.) Phillaur, whereby application for additional evidence was dismissed.

2. Learned counsel for the petitioner submitted that plaintiff wanted to lead the evidence so as to prove the agreement/panchayati compromise dated 18.03.2009 relating to shop forming part of building situated in abadi of Goraya, Tehsil Phillaur, which is owned by defendant

and let out by him to the plaintiff on rent and on the basis of that defendant is liable to seek refund of the amount of ₹2,50,000/- invested by the plaintiff for raising construction of two shops and chaubara.

3. Learned counsel for the petitioner submitted that Court below failed to appreciate the fact that said compromise was forcibly got executed and the same is in possession of defendants. The evidence was closed by Court order and applicant was left with no other alternative except to produce the said document by way of additional evidence and the application filed for that purpose was dismissed by the Court below. The said order be set aside.

4. Having considered the submissions made by learned counsel for the parties, this Court is of the considered view that the learned trial Judge has rightly taken the view that plaintiff's evidence was concluded after availing more than 16 opportunities for that purpose. Thereafter, plaintiffs evidence was closed by Court order. The applicant wants to lead additional evidence but she is not in possession of any such document which she wants to prove by way of additional evidence. That way, the mere existence of the document is not proved and there cannot be any question for allowing such document to be produced by way of additional evidence. Such a plea for additional evidence cannot be accepted merely on the asking of the party rather the party which approaches the Court for additional evidence has to make out a case that the proposed additional evidence is relevant for the just decision of the case and despite due diligence the said evidence could not be adduced when due opportunities were given to the parties. Thereafter, the Court is to form an opinion that the said evidence is essential for just decision of the case but all these ingredients are completely

missing in the case in hand and learned trial Judge has rightly declined the application for additional evidence. The said order does not call for any interference, by way of present revision petition and the same stands dismissed.

January 07, 2016

naresh.k.

**(SHEKHER DHAWAN)
JUDGE**