

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

C.R.No.7759 of 2015 (O&M)

Date of Decision: April 25th, 2016

Smt.Jaswant Kaur

...Petitioner

Versus

Satish Kumar Aggarwal & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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.Namit Gautam, Advocate &
Mr.Vaibhav Sehgal, Advocate,
for the petitioner.

Mr.Raman Sharma, Advocate,
for respondent No.1.

AMIT RAWAL, J. (Oral)

Petitioner-plaintiff is aggrieved of the impugned order, whereby the application moved at the instance of the defendants for de-exhibition of the documents tendered along with the affidavit in examination-in-chief, has been allowed.

Mr.Namit Gautam, learned counsel appearing on behalf of the petitioner-plaintiff submits that there is no provision in the Civil Procedure Code for moving such an application. Assuming for sake of arguments, though not admitting, the provisions of Section 151 CPC can be pressed into service, the remedy, if any, for the defendants was to raise objection qua mode of proof and admissibility at the time when the plaintiff would have stepped into the witness box for cross-examination and, thus, the

impugned order is not sustainable.

Mr.Raman Sharma, learned counsel appearing on behalf of respondent No.1 submits that the documents, sought to be placed on record by way of affidavit, are beyond pleadings and, therefore, cannot be taken into consideration and rightly so, the application was moved, which has been allowed. There is no illegality and perversity in the impugned order. Even as per the judgment rendered by this Court in **Jasjit Singh & Anr. Versus Prem Harjit Singh & Anr., 2012 (4) Civil Court Cases 254 (P&H)**, it has been held that the documents introduced for the first time in the affidavit cannot taken into consideration and, thus, urges this Court for upholding the impugned order.

I have heard the learned counsel for the parties and appraised the paper book and of the view that the defendants had an occasion to raise objection qua the admissibility and mode of proof of the documents tendered along with the affidavit in examination-in-chief at the time of cross-examination of the witness introducing those documents, but not in the manner and mode of moving an application. Though there is no provision in the Civil Procedure Code for moving and entertaining application, but if the provisions of Section 151 CPC are pressed, the same have to be considered to take into note of provisions of Order 13 Rule 4 and Order 18 Rule 4 CPC.

In view of the aforementioned observations, I am of the view that the application at the instance of the defendants was not maintainable. Accordingly, the impugned order allowing the application is hereby set-aside, however, subject to the condition that the respondent-defendants shall have a right to raise the objection with regard to the admissibility and mode

of proof of the documents as and when the plaintiff appears and offers himself for cross-examination.

With the aforementioned observations, the revision petition stands allowed.

April 25th, 2016
ramesh

(AMIT RAWAL)
JUDGE