

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

CR No. 936 of 2015 (O&M)

Date of decision: 04.03.2016

Raj Kumar

... Petitioner

versus

Smt. Sushma Devi and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Sanjay Vij, Advocate, for the petitioner.

Mr. Pankaj Mehta, Advocate for respondent No.1.

K.Kannan, J. (ORAL)

The documents filed by the defendant along with the written statement as purported proof of expenditure incurred for construction had been omitted to be exhibited as evidence. After the defendant's side was closed, the Court had posted the case for rebuttal and arguments. The defendant sought for giving additional evidence on the basis of the documents furnished.

This is a suit for permanent injunction sought by the plaintiff but the defence is that the plaintiff had actually delivered possession of the property pursuant to an agreement and the defendant had actually incurred expenditure for putting up construction. The plaintiff is not a party to the document but considering the nature of defence, the proof of expenditure alleged to have been incurred is

surely relevant. If there was a failure on the part of the defendant to exhibit them at the appropriate time when he was giving his own evidence, the manner of making good the lapse shall be to impose appropriate costs.

The order dismissing the application is set aside on condition that the defendant pays Rs.10,000/- as costs to the plaintiff for reception of additional evidence, which shall be received subject to proof in the manner required by law.

The impugned order is set aside and the revision petition is allowed with above direction.

(K.KANNAN)
JUDGE

04.03.2016

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