

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

**CR No.1035 of 2015
Date of decision:28.4.2017**

Ravinder Singh Gill and another

...Petitioners

Versus

Amarjit Kaur and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr.K.S.Boparai, Advocate for the petitioners.

Mr.Namit Gautam, Advocate for respondents No.2 and 3.

RAMESHWAR SINGH MALIK, J. (Oral)

Feeling aggrieved against the impugned order dated 22.1.2015 passed by the learned trial Court, whereby application for additional evidence moved by petitioners-defendants No.1 and 2 was dismissed, petitioners have approached this Court, by way of present revision petition, filed under Article 227 of the Constitution of India, for setting aside the impugned order.

Notice of motion was issued.

Heard learned counsel for the parties.

Learned counsel for the petitioners, at the very outset, fairly states that the documents, which are sought to be produced by way of additional evidence, are the public documents, which are not coming from the custody of the petitioners and certified copies of these documents are already on record. However, counsel for the petitioners before the learned

trial Court fell sick and these documents could not be tendered into evidence because of which they were not exhibited. He further submits that since all these documents, which are sought to be produced by way of additional evidence, are *per se* admissible in evidence, petitioners shall not lead any other oral evidence, except to tender these documents, which are already on record so that they are properly exhibited. He also submits that since the learned trial Court has failed to appreciate the above-said material aspect of the matter, before passing the impugned order, the same has caused a manifest injustice to the petitioners. He prays for allowing the instant civil revision petition by setting aside the impugned order.

Per contra, learned counsel for respondents No.2 and 3, who are co-defendants of the petitioners, while placing reliance on an order passed by this Court in **Inder Singh Vs. Smt.Sandokhi Devi, 2006 (4) RCR (Civil) 729**, submits that since the petitioners did not act diligently, they are not entitled to tender the documents by way of additional evidence.

Having heard the learned counsel for the parties at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that since the impugned order dated 22.1.2015 (Annexure P-5) passed by the learned trial Court has been found patently illegal, it cannot be upheld and the revision petition deserves to be allowed, for the following more than one reasons.

Once it has gone undisputed before this Court that the documents, sought to be produced by the petitioners by way of additional evidence, were public documents and certified copies thereof were already on record, it was the bounden duty of the learned trial Court itself to put

exhibit numbers thereon. It is so said because the admissibility of such documents was not in question, these being certified copies of public documents, which were *per se* admissible in evidence. Having said that, this Court feels no hesitation to conclude that the learned trial Court misdirected itself, while not appreciating the above-said factual as well as legal aspect of the matter, because of which the impugned order cannot be sustained.

The view that has been taken by this Court also finds support from the judgment of this Court in **Pyare Lal Vs. Meher Singh and others, 2011 (2) CCC 399.**

It is also pertinent to note here that respondents No. 2 and 3 in the present revision petition are co-defendants of the petitioners. Petitioners were defendants No.1 and 2 before the learned trial Court, whereas respondents No.2 and 3 are defendants No.3 and 4 before the learned trial Court. In this view of the matter, defendants would have no locus standi to oppose the application moved by the petitioners-defendants No.1 and 2 for leading additional evidence, which was intended to remove only a formal defect and that too which was prima facie an omission on the part of the learned trial Court.

So far as the order relied upon by the learned counsel for the respondents No.2 and 3 is concerned, there is no dispute about the observations made therein. However, on close perusal of the cited order, it has not been found to be of any help to respondents No. 2 and 3, being clearly distinguishable on facts. It is the settled principle of law that peculiar facts of each case are to be examined, considered and appreciated first, before applying any codified or judgemade law thereto. Sometimes, difference of even one circumstance or additional fact can make the world

of difference, as held by the Hon'ble Supreme Court in **Padmasundara Rao (Dead) Vs. State of Tamil Nadu and others, 2002 (3) SCC 533**, **Union of India Vs. Amrit Lal Manchanda and others, 2004 (3) SCC 75**, **State of Orissa Vs. Md. Illiyas, 2006 (1) SCC 275** and **State of Rajasthan VS. Ganeshi Lal, 2008 (2) SCC 533**.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that since the impugned order has been found suffering from patent illegality, it cannot be sustained. Accordingly, the impugned order is hereby set aside. Application of the petitioners-defendants for leading additional evidence would stand allowed.

Resultantly, with the above-said observations made, the present civil revision petition stands allowed, however, with no order as to costs.

28.4.2017
mks

(RAMESHWAR SINGH MALIK)
JUDGE

Whether Speaking/reasoned : Yes/No

Whether Reportable : Yes/No