

CR No. 1517 of 2017 (O&M)

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

CR No. 1517 of 2017 (O&M)

Date of decision: 03.3.2017

Gurdial Singh and others

...Petitioners

Versus

Gurcharan Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Mohinder Singh Joshi, Advocate
for the petitioners.

RAMESHWAR SINGH MALIK, J. (Oral)

Present revision petition is directed against the order dated 9.2.2017 passed by learned trial court, whereby application of the plaintiff for leading additional evidence was allowed.

Heard learned counsel for the petitioners.

Facts are hardly in dispute. It is a matter of record and not disputed by learned counsel for the petitioners that during the proceedings of the suit, application for leading additional evidence moved by the defendants-petitioners were allowed twice over. This was one of the justified reasons, because of which learned trial court allowed the application of the plaintiff for additional evidence.

A bare reading of the impugned order would show that learned trial court was conscious of the fact that allowing one party to lead additional evidence should not cause prejudice to the other side. Further,

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petitioners have been duly compensated by payment of reasonable costs.

Having said that, this Court feels no hesitation to conclude that learned trial court was well within its jurisdiction to pass the impugned order and the same deserves to be upheld.

Operative part of the impugned order contained in para 8 thereof, which deserves to be noticed here, reads as under:-

“From the abovesaid law laid down by the Hon’ble High Court and Hon’ble Apex Court, it is ample clear that if possible, that court should decide the matter on merit and due opportunity must be given to the parties to plead their case before the court in the manner they like. The only caution which the court must keep in mind is that no prejudice shall be caused to the opposite party. However, in the considered opinion of this court if the plaintiff is allowed to adduce the proposed evidence, neither it will change the nature of the suit nor it will prejudice to the right of the opposite party. Moreover, a perusal of the case file reveals that the defendants themselves led their entire evidence by way of additional evidence. They moved the application for leading additional evidence on two occasions and both the times, their applications to lead additional evidence was allowed. In the considered opinion of this court, if the defendants can be allowed to lead additional evidence then the equity requires that an opportunity must also be given to the plaintiff also to prove his case by way of additional evidence. Moreover, any inconvenience caused to the opposite party can be duly compensated in terms of costs. Accordingly, the application of the appellant for leading additional evidence is hereby allowed subject to payment of cost of Rs. 3,000/- out of which Rs. 1,500/- to be deposited with the District Legal Aid Service Authority and Rs. 1,500/-

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be paid to be opposite party. However, it is hereby made clear that the present suit pertains to the year 2012 and is part of action plan for the year 2016-17, therefore, only two opportunities shall be provided to the plaintiff to lead his entire additional evidence failing which no subsequent opportunity shall be granted for the same purpose.”

During the course of hearing, learned counsel for the petitioners could not point out any patent illegality and perversity in the impugned order. The impugned order passed by learned trial court has been found in consonance with the law laid down by the Hon'ble Supreme Court as well as this Court. No prejudice, whatsoever, has been pointed out by learned counsel for the petitioners, which might have been caused to the petitioners by passing of the impugned, which deserves to be upheld, for this reason also.

No other argument was raised.

Considering the peculiar facts and circumstances of the cases noted above, coupled with the reasons aforementioned, this Court is of the considered view that present revision petition is misconceived, bereft of merit and without any substance. Thus, it must fail. No case for interference has been made out.

Resultantly, with the abovesaid observations made, instant revision petition stands dismissed, however, with no order as to costs.

03.3.2017
AK Sharma

(RAMESHWAR SINGH MALIK)
JUDGE

Whether Speaking/reasoned : Yes/No
Whether Reportable : Yes/No