

CR No.1949 of 2017 (O&M)

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

**CR No.1949 of 2017 (O&M)
Date of decision: 20.3.2017**

Arun Arya

...Petitioner

Versus

Ram Kumar

...Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Ajay Jain, Advocate
for the petitioner

RAMESHWAR SINGH MALIK, J. (Oral)

Present revision petition, at the hands of plaintiff, is directed against the order dated 7.3.2017 passed by the learned trial court, whereby his application seeking permission to examine Documents Expert was declined.

Heard learned counsel for the petitioner.

It is a matter of record and not in dispute that evidence of the plaintiff was closed by court order on 18.10.2016 and the case was adjourned to 25.10.2016 for evidence of the defendant. Petitioner-plaintiff did not challenge the abovesaid order dated 18.10.2016 passed by the learned trial court, whereby his evidence was closed, and the same has attained finality against the petitioner. Once the petitioner has chosen not to challenge the order dated 18.10.2016, application moved on behalf of the plaintiff-petitioner was not even maintainable, because his evidence already stood closed and that too by court order. Having said that, this Court feels

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no hesitation to conclude that the learned trial court was well within its jurisdiction to pass the impugned order and the same deserves to be upheld.

When the present case came up for hearing on 18.3.2017, following order was passed by this Court:-

“Learned counsel for the petitioner seeks short adjournment to get the relevant zimni orders passed by the learned trial court, whereby petitioner-plaintiff reserved his right under Order 18 Rule 3 CPC for leading his evidence in rebuttal.

On his request, adjourned to 20.3.2017.”

In compliance of the abovesaid order passed by this Court, learned counsel for the petitioner could not show any relevant zimni order to the Court, whereby the plaintiff-petitioner might have reserved his right for leading his evidence in rebuttal, which is now sought to be led. In this view the matter, it is unhesitatingly held that the learned trial court committed no error of law, while passing the impugned order and the same deserves to be upheld, for this reason also.

So far as judgment dated 20.2.2017 passed by this Court in CR No. 1212 of 2017 (Pritam Singh Vs. Manjit Singh and others), relied upon by learned counsel for the petitioner, is concerned, there is no dispute about the observations made therein. However, on a close perusal of the cited judgment, it has not been found to be of any help to the petitioner, being 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 **Padmausundara Rao and**

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another 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.

During the course of hearing, learned counsel for the petitioner could not point out any patent illegality or perversity in the impugned order, which may warrant interference at the hands of this Court, while exercising its revisional jurisdiction under Article 227 of the Constitution of India. In this view of the matter, it can be safely concluded that learned court below committed no error of law, while passing the impugned order and the same deserves to be upheld, for this reason also.

No other argument was raised.

Considering the peculiar facts and circumstances of the case 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.

20.3.2017
AK Sharma

(RAMESHWAR SINGH MALIK)
JUDGE

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