

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

CR No.2075 of 2017.

Date of Decision: 22.03.2017.

Hari Singh

....Petitioner.

VERSUS

Charan Singh @ Charanjeet and another

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Sandeep Kumar Yadav, Advocate for the petitioner.

SNEH PRASHAR, J.

Challenge in this petition is to the order dated 14.03.2017 passed by learned Civil Judge (Junior Division), Mahendergarh by virtue of which the application filed by the petitioner-plaintiff for additional evidence was dismissed.

The submissions made by Mr. Sandeep Kumar Yadav, learned counsel for the petitioner have been considered.

Learned counsel for the petitioner contends that the two Jamabandies for the year 2003-2004 and 2008-2009 as well as the legal notice and postal receipt, which the petitioner seeks to tender in evidence by way of additional evidence are already on the case file. No new document, which would take the respondent-defendant by surprise is to be produced. The fact that the documents had already been made part of the case file explains that due to inadvertent omission on part of counsel for the

documents are necessary for just decision of the case and therefore, learned trial Court erred in dismissing the application of the petitioner.

There appears no force in the arguments of learned counsel for the petitioner. Four reasons have been assigned by learned trial Court for dismissing the application of the petitioner seeking permission to adduce additional evidence. Firstly that the application had been filed at the fag end of the case that too after availing four effective opportunities including last opportunity to conclude the rebuttal evidence by the petitioner. It was also mentioned by learned trial Court that after the evidence of the petitioner-plaintiff was closed by order on 07.09.2016 and before the defendants could lead their evidence, an application under Order XVIII Rule 17 of the Code of Civil Procedure was filed by the petitioner-plaintiff which was liberally allowed by the Court. In that application as well, the petitioner did not mention anything about the documents which he now wants to tender by way of additional evidence even though as stated by him the documents were available on the case file. Secondly, no sufficient reason had been explained by the petitioner to show that despite exercise of due diligence, he was unable to produce the documents in evidence which admittedly were in his knowledge and possession; thirdly that the application had been filed by the petitioner only to fill up the lacuna in his case which he noticed at the time of preparation of final arguments; and lastly that the petitioner had failed to show how the documents were relevant or essential for proper and just decision of the case.

Indeed, on all the four grounds taken up by learned trial Court, as observed above, the application filed by the petitioner deserved to be dismissed. The documents were in knowledge of the petitioner and were in

did not tender the same in evidence, apparently because they were not required to be produced in support of any of the pleas raised by him or to counter any plea raised by the defendants. The petitioner had filed a suit for possession by way of specific performance of an agreement to sell. Though it is the contention of learned counsel for the petitioner that the respondents-defendants had denied execution of the agreement to sell in his written statement, but it is not his plea that the respondents-defendants had denied that they were not owners of the property qua which the agreement to sell was alleged to have been executed. It is for the said reason that learned trial Court observed that the petitioner had failed to show relevancy of the documents proposed to be produced and the witness proposed to be examined in additional evidence, to the matter in dispute so as to consider the same to be essential for just decision of the case. The documents, which were not to answer any question between the parties, could not be allowed to be produced by way of additional evidence at the fag end of the case. It can be added that apparently the application had been filed only to prolong the proceedings and delay disposal of the case.

Thus, the order passed by learned trial Court suffers from no illegality or perversity and the petition being devoid of merit is dismissed.

(SNEH PRASHAR)
JUDGE

22.03.2017.
jitender sharma

Whether speaking/ reasoned : **Yes/ No**

Whether Reportable : **Yes/ No**