

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

CR No.2098 of 2017.

Date of Decision: 22.03.2017.

Saroj Rani

....Petitioner.

VERSUS

Gurdev Singh

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Rai Singh Chauhan, Advocate for the petitioner.

SNEH PRASHAR, J.

In the instant petition, the challenge is to the order dated 14.03.2017 passed by learned Civil Judge (Senior Division), Shaheed Bhagat Singh Nagar vide which the application filed by the respondent-plaintiff for placing on record the documents mentioned in the affidavit of PW5 Kashmir Kaur was allowed.

The submissions made by Mr. Rai Singh Chauhan, learned counsel for the petitioner have been considered.

Learned counsel for the petitioner contends that the documents which the respondent intends to bring on record were neither produced nor exhibited during statement of PW5 Kashmir Kaur. The application for placing on record the documents had been filed by the respondent at the fag end of the case i.e. when both the parties had already concluded their evidence. The intention of the respondent was to fill up the lacuna in his

case and to reopen the trial which could not be allowed at that stage by invoking the provision of Order XVIII Rule 17 read with Section 151 of the Code of Civil Procedure. Learned counsel relies upon the ratio of law laid down by Hon'ble Supreme Court of India in **Civil Appeal No.1684 of 2016 'Ram Rati vs. Mange Ram (D) through LRs and others'**.

The order of learned trial Court indicates that the application of the respondent for producing certain documents on record was allowed in peculiar circumstances. Respondent Kashmir Kaur stepped into the witness box as PW5 and in her examination in chief, made in the shape of an affidavit, she mentioned three documents Ex.P9 to Ex.P11, copies of bank statements of account of Gurdev Singh sought to be tendered during her statement. However, inadvertently the respondent failed to produce the said documents on record. In the said state of facts, it can be said without hesitation that despite having exercised due diligence the respondent-plaintiff was unable to tender the documents in evidence. No new document is sought to be produced. The documents which were already mentioned in the affidavit of the respondent-plaintiff are sought to be tendered. As far as the objection of the petitioner regarding validity or mode of proof of the documents is concerned, the petitioner has a right to raise any legal objection available to it. In said set of facts, learned trial Court rightly allowed the application of the respondent-plaintiff to produce the documents.

There is another aspect of the case. It has been mentioned in the impugned order by learned trial Court that the documents which the respondent-plaintiff seeks to tender are such that would render assistance to the Court for complete, effective and wholesome adjudication of the

litigation between the parties and that the documents go to the root of the case and would facilitate the Court in arriving at just and right decision. That being the observation the application deserved to be allowed.

There may have been delay in filing the application but merely on the ground of delay, unless it is proved to be intentional, malafide or designed to delay disposal of the suit, a just and proper relief necessary for parting justice to the parties, cannot be declined.

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

22.03.2017.
jitender sharma

(SNEH PRASHAR)
JUDGE

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

Whether Reportable : **Yes/ No**