
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.112

Civil Revision No. 4044 of 2017
DECIDED ON: June 02, 2017

M/S ATMA RAM PRITI PAL COMMISSION AGENT & ANR.

..PETITIONERS

VERSUS

THATH SINGH AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Ms. Puja Chopra, Advocate,
for the petitioners.

JASPAL SINGH, J.

By virtue of the instant revision petition preferred under Article 227 of the Constitution of India, petitioners have sought the setting aside of order dated May 01, 2017 passed by the learned Civil Judge (Jr. Divn.) Pehowa, District Kurukshetra vide which an application filed by the petitioner No.1/plaintiff for leading additional evidence in the shape of production of accounts books pertaining to respondents/defendants for the financial 2011-12 onwards; has been dismissed.

Briefly stated the facts of the case are that petitioner No.2 is a sole proprietor of petitioner No.1, which is commission agency and both the petitioners file a suit for recovery against the respondents. In the year 2011-12 respondents have taken various amounts in advance from them as detailed and described in the plaint. Respondents also sold their agricultural produce at their commission agency. The bonus amount to the tune of ₹33025/- received by the petitioners was also credited in the accounts of respondents and accordingly, a sum of ₹12,71,645/- was carried forward in the next financial year 2012-13. On October 30, 2012, respondent No.2/defendant No.2 took an advance of ₹2500/- from the petitioners and respondents also sold their agricultural produce worth ₹42672/-. After deducting the amount of ₹42672 an amount of ₹12,31,473/- remained due as outstanding against the respondents. During the pendency of suit, petitioners filed an application for leading additional evidence, which was declined vide impugned order, May 01, 2017.

While assailing the impugned order, it has been argued with vehemence by learned counsel for the petitioners that due to over sight, the accounts books pertaining to the year 2011-12 could not be brought on record whereas, the other relevant documents have already been produced and proved on record. The said mistake is due to inadvertence and without any malafide intention. In fact, the petitioners were under the impression that the said documents are already on record. Moreover, copy of income tax return of petitioners/plaintiffs is already on record as Ex. P-20, which clearly depicts the amount due against the respondents/defendants. Learned

counsel for the petitioners further submits that in case an application for leading additional evidence is allowed, it would enable the court to pronounce an effective and proper judgment.

This Court has given due consideration to the afore-said submissions made by learned counsel for the petitioners but find the same to be without any legal or factual substance.

It is relevant to mention at the very outset, that when an application seeking permission to adduce additional evidence ie. Account books etc, was moved by the petitioners, the suit was at its penultimate stage i.e. fixed for rebuttal evidence. The accounts books pertaining to the year 2011-12, which the petitioners intend to place and prove on record by way of additional evidence were very much in the knowledge of the petitioners when they concluded their evidence. It is also well settled proposition of law that additional evidence can only be adduced when there are circumstances under which petitioner could not produce those documents/evidence or that the same was not within his knowledge or in existence at the time when he led his evidence. But in the instant case petitioners does not fall in any of above-said categories. In fact the filing of application at penultimate stage is suggestive of the fact that petitioners intend to fill up the lacunae left in their case and further to delay the disposal of suit.

Thus, this Court is of the considered view that impugned order is absolutely in consonance with the evidence as well as legal proposition of law. As such, it does not call for any interference by this Court

In the light of what has been discussed above, this court does

not find any merit in the instant petition and same is dismissed, whereby the impugned order is upheld.

No order as to costs.

JUNE 02, 2017
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No