

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

CR No.4707 of 2016 (O&M)

Date of decision: 28.11.2017

Arjun Singh

...Petitioner

Versus

Om Parkash and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Narender Kaajla, Advocate for the petitioner.

Mr. Gurpreet Jayia, Advocate for
Mr. Ravi D. Sharma, Advocate for the respondents.

REKHA MITTAL, J. (Oral)

Challenge in the present petition has been directed against order dated 19.05.2016 (Annexure P4) passed by the Civil Judge (Jr. Div.), Kaithal whereby application for additional evidence filed by the respondents/defendants has been allowed.

The sole submission made by counsel for the petitioner is that the trial Court while allowing the application has not assigned any reason nor adopted any process of reasoning.

Counsel representing the respondents/defendants, on the contrary, has supported the impugned order.

I have heard counsel for the parties, perused the paper book particularly the order impugned.

A relevant extract from the order impugned reads as follows:-

“From the same, it appears that the application has been moved when the case was fixed for rebuttal evidence, if any, and arguments. No rebuttal evidence was produced. No doubt the defendant/applicant has closed his evidence vide separate statement dated 26.11.2015. But, the interest of justice will be better served if the case be decided on its merits, and if the application is allowed. No prejudice will be caused to the plaintiff who shall get an opportunity to cross-examine the said witnesses and also to bring own witness in rebuttal evidence if any.”

Perusal of the concluding observations in the aforesaid extract leaves no manner of doubt that the trial Court has passed a cryptic order without assigning any reason as to why the respondents/defendants should be allowed to adduce additional evidence. In this view of the matter, I find merit in contention of the petitioner that the impugned order cannot stand the test of judicial scrutiny and liable to be set aside.

For the foregoing reasons, the petition is allowed. The impugned order is set aside and the matter is remitted to the trial Court for decision of application for additional evidence afresh after hearing the parties, in accordance with law.

Disposed of accordingly.

28.11.2017

ashok

Whether speaking/reasoned:
Whether reportable:

(REKHA MITTAL)
JUDGE

Yes / No
Yes / No