

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

271

CR-509-2017 (O&M)

Date of Decision:03.10.2017

Kanhiya Lal

.....Petitioner

Versus

Naresh Kumar

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK.

**Present: Mr.J.P.Sharma, Advocate,
for the petitioner.**

**Ms.Pratibha Yadav, Advocate,
for the respondent.**

RAMESHWAR SINGH MALIK, J.(Oral)

Feeling aggrieved against the order dated 08.12.2016 (Annexure P-1), whereby application moved by the petitioner-defendant for leading additional evidence was dismissed by the learned trial court, defendant has approached this Court by way of instant revision petition, filed under Article 227 of the Constitution of India, for setting aside the impugned order (Annexure P-1).

Notice of motion was issued and in the meantime, the learned trial court was directed to adjourn the case beyond the date fixed before this Court.

Heard learned counsel for the parties.

Learned counsel for the petitioner-defendant, at the very outset,

fairly states that although the petitioner ought to have been more careful and

vigilant to get all the documents exhibited during the course of his evidence yet he deserves to be granted one more opportunity to get exhibited the documents which are already on record as marked documents, so as to avoid miscarriage of justice and the respondent-plaintiff may be compensated by payment of reasonable amount of costs.

Learned counsel for the respondent-plaintiff vehemently opposed the abovesaid contention raised by learned counsel for the petitioner, contending that sufficient time had already been granted to the petitioner but he was intending to delay the proceedings. She seeks dismissal of the revision petition.

Having heard the learned counsel for the parties at considerable length, after going through record of the case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that the submission made on behalf of the petitioner has been found to be well justified and deserves to be accepted. It is so said because the documents qua which the petitioner is seeking permission to lead additional evidence are already produced on record as marked documents. Once this is the undisputed fact situation on record, no prejudice was likely to be caused to the respondent-plaintiff in case petitioner-defendant had been granted the opportunity to lead additional evidence. However, since the learned trial court could not appreciate this material aspect of the matter while passing the impugned order, it has resulted in miscarriage of justice and the same cannot be upheld.

By allowing the petitioner-defendant to lead additional evidence about the documents which are already on record as marked documents, would not take the plaintiff by surprise. Further, there is no

scope of any fabrication of any documents at the hands of the petitioner because the documents are already available on record of this very case. Under these undisputed circumstances of the case, it can be safely concluded that the learned trial court fell in error of law, while passing the impugned order and the same cannot be sustained, for this reason also.

During the course of hearing, learned counsel for the respondent-plaintiff could not raise any meaningful argument in support of the impugned order and rightly so, as no such argument was available to the respondent. It goes without saying that rules of procedure are meant for advancing the cause of justice. Every court of law must make an endeavour to grant sufficient opportunities to both the parties to put-up their best case before the court.

Nobody should be forced to go home with the grievance that reasonable opportunity was not granted by the court. While following the abovesaid principle of law, the learned court shall achieve twin objects; namely, (i) it would avoid multiplicity of litigation between the parties and (ii) the learned court itself would be in a much better position to arrive at a judicious conclusion so as to do complete and substantial justice between the parties. However, the learned trial court could not appreciate the abovesaid principle of law in the case in hand, while passing the impugned order and the same cannot be sustained, for this reason as well.

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 opinion that since the impugned order has been found suffering from patent illegality and perversity, it cannot be sustained. Accordingly,

impugned order dated 08.12.2016 (Annexure P-1) passed by the learned trial court, dismissing the application of the defendant for leading additional evidence is hereby set aside, however, subject to payment of ₹5,000/- as costs to be paid by the petitioner to the respondent-plaintiff on or before the next date of hearing before the learned trial court.

Resultantly, with the above-said observations made and directions issued, instant revision petition stands allowed in the abovesaid terms.

October 03, 2017
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(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No