

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

CR No.5216 of 2017
Date of decision : 08.08.2017

Punjab Financial Corporation

...Petitioner

Versus

M/s Uniscans and Sonics Ltd. and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Deepak Sabherwal, Advocate for the petitioner.

ANIL KSHETARPAL, J. (ORAL)

The Punjab Financial Corporation has filed this revision petition against the order passed by the Additional District Judge, Chandigarh dated 22.05.2017 allowing the application for permission to lead additional evidence.

The learned First Appellate Court has found that the documents sought to be produced by way of additional evidence shall assist the Court in deciding the quantum of compensation. It has further been found that the evidence sought to be produced is most relevant for adjudication of the appeal. The reasons assigned by the Court while allowing the application are as under:-

“5. After having heard learned counsel for the parties and after having gone through the case file minutely, this Court has arrived at the conclusion that administration of justice requires that the application in hand should be

*allowed because it will not be possible for this Court to decide the appeal without the proposed evidence. In this context, this Court finds it appropriate to maintain that the appellant has initiated the present litigation while maintaining that at the time of taking the possession of the premises in question by Punjab Financial Corporation, an inventory was prepared and later on at the time of delivery of possession to the application another inventory was also prepared by the Local Commissioner, appointed by Hon'ble Punjab & Haryana High Court and there is material difference between both these inventories. Besides it, substantial loss was caused to the building, fixtures as well as furniture lying therein and the applicant had got the loss assessed from various persons and said loss has been claimed by the appellant from the respondents. If ultimately, this Court finds that grievance of the appellant is justified, then for deciding the quantum of compensation, the proposed evidence shall assist the Court in deciding the quantum of compensation in a long way. Although, all these documents were already in the knowledge of the appellant, but were not produced in the Court. In this context, this Court on account of lapse of his counsel and he should not be punished on account of the lapse of his counsel. In this context, this Court places reliance on the observations made in citation titled as **M/s Amba Maa Mills Vs. Haryana State Industrial Development Corporation & Anr. 2007(4) Civil Court Cases 744 (P&H)**, wherein it has been observed by Hon'ble High Court that Provision of Order 41 Rule 27 of Civil Procedure Code provide that besides the condition laid above, the Court can always grant permission to lead additional evidence in case the Court finds that production of such evidence is necessary for the just and proper adjudication of the case and since*

*the specific observations had been given by Hon'ble High Court with regard to the fact that document sought to be produced by way of additional evidence was necessary for just and proper adjudication of the case, hence, the evidence sought to be produced should be allowed. Further, this Court places reliance on citation titled as **Ram Niwas Vs. Kalu Ram & Anr. 2012(3) Civil Court Cases 458 (P&H)**, wherein, it has been observed by Hon'ble High Court that if Court finds that the documents sought to be produced in additional evidence are relevant to decide the real issue in controversy and further the Court feels that interest of justice requires that the documents may be received and the kinds of documents are such, the authenticity of which cannot be disputed, the same may be allowed to be produced in additional evidence. The observations made in the authorities (supra) are fully applicable to the facts of the present case because this Court has already observed that the evidence sought to be produced by the applicant is most relevant for adjudication of the present appeal and grave prejudice shall be caused to the appellant if permission is not granted to adduce additional evidence by taking the shelter of the procedure, rather it shall be amount to miscarriage of justice and in these circumstances, the application stands allowed. Now for adducing additional evidence, case stands adjourned to 4.7.2017.”*

Learned counsel for the petitioner has submitted that these documents are of the years 1991 and 2000 i.e. much prior to the filing of the suit. Learned counsel for the petitioner has further submitted that these documents were in the knowledge of the respondents and, therefore, these documents could not be allowed to be produced by way of an additional

evidence.

I have considered the submissions of learned counsel for the petitioner.

The learned First Appellate Court has allowed the application filed under Order 41 Rule 27(1)(b) CPC which authorises the Appellate Court to take any evidence which would enable the Court to pronounce the judgment. Under Order 41 Rule 27 (1)(b) CPC, there is no requirement that the Court must record the finding that such documents were not in the knowledge of the respondents.

For the reasons recorded above, I do not find any reason to interfere with the discretion exercised by the First Appellate Court.

Revision petition is dismissed.

08.08.2017

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No