

In the High Court of Punjab and Haryana at Chandigarh

C.R.No. 5672 of 2017
Date of Decision: 24.8.2017

Mohan Singh

---Petitioner

versus

Mohinder Singh

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. S.P.Soi, Advocate
for the petitioner**

Rekha Mittal, J.

The present petition directs challenge against order dated 29.7.2017 (Annexure P-3) passed by the Civil Judge (Junior Division), Jalandhar whereby application filed by the respondent/defendant for additional evidence has been allowed.

Counsel for the petitioner has assailed the impugned order primarily on two counts. The first submission made by counsel is that in the order impugned, it has been mentioned that reply to the application not filed whereas reply to the said application was filed by the petitioner and the said fact is duly recorded in the order dated 14.7.2017 passed by the trial court, sufficient to show that the order has been passed without due application of mind.

The second submission made by counsel is that the respondent/defendant has failed to aver much less substantiate the ingredients of due diligence for his failure to produce the evidence sought

to be led by way of additional evidence at appropriate stage of the proceedings despite the fact that the respondent/defendant had availed number of effective opportunities for adducing evidence.

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

The respondent-defendant filed the application to produce certified copy of judgment and decree dated 10.1.2012 passed in Civil Suit No. 153 /2010 instituted on 16.7.2010 by way of additional evidence. The application for additional evidence was filed without any loss of time after the respondent closed his evidence on 15.5.2017. It is none of the plea of the petitioner that evidence sought to be adduced by way of additional evidence is not relevant and material for just decision of the case. The documents sought to be tendered into evidence are of unimpeachable credibility being copies of judgment and decree passed by the court. Under the circumstances, even if the trial court has committed some inadvertent error by mentioning that reply to the application not filed, the same is not sufficient to set aside the order impugned. As per settled position in law additional evidence can be allowed at any stage of the proceedings if the same is material for just decision of the controversy involved in the suit.

For the foregoing reasons, finding no merit, the petition fails and is accordingly dismissed in limine.

(Rekha Mittal)
Judge

24.8.2017

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No