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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.6062 of 2016

Date of Decision : 28.09.2017

NARANJAN SINGH

....PETITIONER

VERSUS

BALWINDER KAUR AND ANOTHER

....RESPONDENTS

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Manish Kumar Singla, Advocate for the petitioner.
Mr. Parveen Kumar Garg, Advocate for the respondents.

RAMESHWAR SINGH MALIK, JUDGE (ORAL)

The instant civil revision petition under Article 227 of the Constitution of India, at the hands of plaintiff, is directed against the order dated 05.09.2016, passed by the learned trial Court, whereby application moved by the plaintiff, for granting permission to examine handwriting and finger print expert in his rebuttal evidence was dismissed by the learned trial Court.

Notice of motion was issued and in the meantime, passing of the final order was stayed.

Heard learned counsel for the parties.

Learned counsel for the petitioner has rightly placed reliance on an order dated 18.11.2014, passed by the learned trial Court, whereby at the time of closing his evidence in affirmative, plaintiff specifically reserved his right to lead evidence in rebuttal. Once the plaintiff has

rightly invoked his right under Order XVIII Rule 3 of the Code of Civil Procedure, reserving his right to lead evidence in rebuttal, the learned trial Court ought to have allowed his application, permitting him to examine handwriting and finger print expert regarding issue No.7 because onus to prove issue No.7 was rightly put by the learned trial Court on defendants. Since the learned trial Court could not appreciate the abovesaid factual as well as legal aspects of the matter, while passing the impugned order, it has resulted in miscarriage of justice and the same cannot be sustained.

Had the plaintiff-petitioner not reserved his right under Order XVIII Rule 3 CPC for leading his evidence in rebuttal, position might have been different. However, the learned trial Court neither discussed nor discarded the abovesaid order dated 18.11.2014, whereby the plaintiff reserved his right to lead evidence in rebuttal but was altogether ignored by the learned trial Court at the time of passing the impugned order and the same cannot be sustained for this reason also.

In fact, by passing the impugned order, very object of the provisions of law contained in Order XVIII Rule 3 CPC would stand defeated which is not permissible in law. Had the learned trial Court correctly appreciated true import of the order dated 18.11.2014 and the object of Order XVIII Rule 3 CPC, there was no scope of passing the impugned order, thus, it cannot be sustained.

Further, every court of law must make an endeavour to grant reasonable opportunity to both the parties to the litigation to put up their respective best cases before the court. Nobody should be forced to go

home with the grievance that he was not granted due opportunity to put up its best case. While proceeding on this principle of law, the learned courts would be achieving twin objects; i) they would be avoiding multiplicity of litigation and ii), the learned courts would be in a much better position to do complete and substantial justice between the parties. It is equally true that while doing complete and substantial justice, technicalities must not be allowed to stand in the way of imparting justice. However, since in the case in hand, abovesaid principle of law was neither followed nor properly appreciated by the learned trial Court, at the time of passing of the impugned order, a serious prejudice has been cause to the plaintiff-petitioner and the impugned order cannot be sustained for this reason as well.

No other argument was raised.

Considering the peculiar facts and circumstances of the case coupled with the reasons aforementioned, this Court is of the considered view that since the impugned order has been found suffering from patent illegality and perversity, it cannot be sustained. Accordingly, the impugned order dated 05.09.2016, passed by the learned trial Court is hereby set aside.

Application of the plaintiff-petitioner for permitting him to examine handwriting and finger print expert in his rebuttal evidence would stand allowed. Learned trial Court is directed to permit the petitioner-plaintiff to examine handwriting and finger print expert in his rebuttal evidence, on issue No.7. Thereafter, the learned trial Court shall proceed further to decide the suit, in accordance with law.

With the abovesaid observations made and directions issued,
the instant revision petition stands allowed, however, with no order as to
costs.

(RAMESHWAR SINGH MALIK)
JUDGE

September 28, 2017
rajneesh

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