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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.7614 of 2017 (O&M)

Date of Decision : 03.11.2017

GURDEV KAUR MARWAHA

....PETITIONER

VERSUS

BACHAN KAUR AND ANOTHER

....RESPONDENTS

CORAM : HON'BLE MR. JUSTICE B.S. WALIA

Present: Mr. Karan Garg, Advocate for the petitioner.

B.S. WALIA, JUDGE (ORAL)

[1] Petitioner has challenged order dated 11.09.2017 (Annexure P-4) vide which the learned Additional Civil Judge (Sr. Divn.), Amloh dismissed the application of the petitioner-plaintiff for leading additional evidence by summoning the record maintained in the Bank of India, Amloh, Mandi Gobindgarh qua the account of M/s Jassar Multimetals and M/s Jassar Forging.

[2] The learned trial Court dismissed the application on the ground that the civil suit had been instituted by the petitioner-plaintiff on 31.07.2012, issues were framed on 29.08.2014 and after availing 27 effective opportunities, evidence of the plaintiff was closed by the learned counsel for the plaintiff on 01.09.2016. Thereafter, the defendants also led evidence and closed the same on 25.07.2017. The learned trial Court also took into account that earlier also one application had been moved by the petitioner-plaintiff for issuance of directions to

the defendants to furnish bank accounts before the Court of the Civil Judge (Jr. Divn.), Amloh but the same was dismissed on 16.04.2015.

[3] Learned trial Court dismissed the application primarily on the ground that earlier application was moved for furnishing Bank account details of the defendants as well as M/s Jassar Multimetals. The same was dismissed. Subsequently application was moved during cross-examination of defendant witness No.2 on the ground that passbook had been produced by defendant witness No.2 apart from the pass book of his wife from which it was learnt that the defendants were carrying on business through M/s Jassar Multimetals and M/s Jassar Forging.

[4] The learned trial Court observed that since the application seeking bank account details of defendants M/s Jassar Multimetals had earlier been dismissed and the subsequent application for leading additional evidence by summoning the record maintained in Bank of India on account of M/s Jassar Multimetals and M/s Jassar Forging was qua the same account in respect of which details had been sought earlier, therefore, in the absence of a challenge to the dismissal of the earlier application, it could not be said that the petitioner had made out a case for leading additional evidence particularly when the case was fixed for rebuttal evidence as well as for arguments and the petitioner had already availed 27 effective opportunities.

[5] I have considered the submissions of learned counsel and am of the view that since the application seeking bank account details of the defendants M/s Jassar Multimetals had earlier been dismissed and the subsequent application for leading additional evidence by summoning the

record maintained in Bank of India on account of M/s Jassar Multimetals and M/s Jassar Forging was qua the same account in respect of which details had been sought earlier, therefore, in the absence of a challenge to order dated 16.04.2015 dismissing the earlier application and no fresh circumstances having been shown warranting filing of a fresh application, the impugned order cannot be said to be suffering from any infirmity. Faced with the aforementioned position, learned counsel for the petitioner prays for liberty to challenge the order, whereby the application moved on 08.12.2014 was dismissed vide order dated 16.04.2015. Needless to mention, it would always be open to the petitioner to take recourse to the remedy as is available to him, in accordance with law.

[6] Revision petition disposed of as above.

(B.S. WALIA)
JUDGE

November 03, 2017

rajneesh

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No