

CR No. 7901 of 2014 (O&M)

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

**CR No. 7901 of 2014 (O&M)
Date of Decision: 18.9.2017**

Satbir

.....Petitioner

Vs.

Niranjan and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. Manoj Makkar, Advocate
for the petitioner.

None for the respondents.

RAMESHWAR SINGH MALIK J. (ORAL)

Present revision petition under Article 227 of the Constitution of India, is directed against the order dated 20.10.2014 (Annexure P-5), whereby application of defendant No.1, filed under Order 41 Rule 27 of the Code of Civil Procedure ('CPC' for short), during the pendency of his first appeal, was dismissed by the learned Additional District Judge.

Notice of motion was issued. However, none has come present on behalf of the respondents to argue the case.

Heard learned counsel for the petitioner.

It is a matter of record that petitioner wanted to lead his additional evidence by filing copy of ration card, copy of birth certificate, copy of voter card, copy of death certificate, copy of certificate issued by Sarpanch, copy of notice regarding publication issued by Sub-Registrar and copy of publication published in a Newspaper. All these documents were

CR No. 7901 of 2014 (O&M)

well within knowledge of the petitioner-defendant right from the day one. In case these documents were of some help to the petitioner, he could have brought these documents on record, while leading his defence evidence, however, he did not do so and that too for no good reasons.

When the learned counsel for petitioner was asked to point out any justified reason, so as to enable this Court to permit the petitioner to lead additional evidence, at this belated stage, he had no answer and rightly so, it being a matter of record. Having said that, this Court feels no hesitation to conclude that the learned court below committed no error of law, while passing the impugned order and the same deserves to be upheld.

Scope of Order 41 Rule 27 CPC cannot be extended to such an extent that the defaulting party would be permitted to lead additional evidence at any stage of the litigation in spite of the fact that said party has failed to establish on record as to why the evidence sought to be adduced by way of additional evidence could not be brought on record at an earlier point of time despite exercising due diligence. It is not even the pleaded or argued case on behalf of the petitioner that in spite of exercise of due diligence on his part, the documents sought to be produced now could not be produced before the learned court below at the time of leading his evidence. Once it is so, no fault can be found with the impugned order and the same deserves to be upheld, for this reason also.

During the course of hearing, learned counsel for the petitioner could not point out any patent illegality or perversity in the impugned order, which may warrant interference at the hands of this Court, while exercising its revisional jurisdiction under Article 227 of the Constitution of India. In fact, the impugned order has been found duly supported by sound reasons

CR No. 7901 of 2014 (O&M)

3

and the same deserves to be upheld, for this reason also.

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 view that present revision petition is misconceived, bereft of merit and without any substance. Thus, it must fail. No case for interference has been made out.

Resultantly, with the abovesaid observations made, instant revision petition stands dismissed, however, with no order as to costs.

18.9.2017
Ak Sharma

(RAMESHWAR SINGH MALIK)
JUDGE

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