IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 8166 of 2017(O&M)

Date of decision: 28.11.2017

Mohan Singh …..Petitioner

VERSUS

M/s Firm Manak Tala Brothers and others .....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Veneet Sharma, Advocate for the petitioner.

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REKHA MITTAL, J.

CM No.25042-CII of 2017

Heard.

Allowed as prayed for.

Annexures P-1 to P-5 are taken on record subject to just exceptions.

Exemption from filing certified copy of Annexure P-6 is allowed.

Disposed of accordingly.

CM No.25410-CII of 2017

Heard.

Allowed as prayed for.

Annexures A-1 and A-2 are taken on record subject to just exceptions.

Disposed of accordingly.

CR No.8166 of 2017

The present petition directs challenge against order dated 06.11.2017 (Annexure P-6) passed by the trial Court whereby application under Section 151 of the Code of Civil Procedure, 1908 (in short 'CPC') filed by the petitioner and performa respondents for leading additional evidence has been dismissed.

Counsel for the petitioner has submitted that the petitioner and performa respondents have filed a suit for permanent injunction restraining respondents No.1 and 2 from making any additions or alterations or construction in the demised shop on the ground floor, forming part of building/property No.43/16 situated at near Bridge Porian, Adda Motran, Outside Hall Gate, Amritsar. It has been averred that a partnership firm M/s Firm Manak Tala Brothers (in short 'the firm') – defendant No.1 was inducted as a tenant in the demised shop by S. Gurbax Singh son of Laxman Singh (since deceased) predecessor-in-interest of the plaintiffs. In the written statement filed by defendants No.1 and 2, it has been averred that they are no longer in possession of the demised shop and have surrendered possession and tenancy rights in favour of Surinder Singh son of late Gurbax Singh – defendant No.3. It is further argued that the plaintiffs adduced their evidence in support of their pleadings. Manmohinder Singh, one of the partners of the firm appeared in the witness box and in his cross examination, he had stated that the partnership firm has TIN number and VAT number. The plaintiffs filed the instant application to examine the concerned Clerk of Excise and Taxation Department Range-II, Rani Ka Bagh, Amritsar along with record of TIN/VAT number of firm M/s Manak Tala Brothers, Outside Hall Gate, Amritsar but the said application has been dismissed by the trial Court on account of its failure to appreciate in right perspective that official records to be produced from the office of Excise and Taxation Department Range-II, Amritsar would clinch the matter in controversy as to whether defendants No.1 and 2 are in possession of the suit property and carrying on business from the said premises. It is further submitted that as the evidence sought to be produced by way of additional evidence cannot be procured/manufactured by the plaintiffs and would subserve the purpose of substantial justice between the parties, it is a very good case for exercise of inherent jurisdiction of the Court to allow the plaintiffs to adduce additional evidence. In support of his contention, he has referred to judgments of this Court **Jaipal Vs. Hari Dass and others, 2017(1) Law Herald 539**, **Mohan Singh Vs. Mohinder Singh, CR No.5672 of 2017 decided on 24.08.2017** and **Amar Singh Vs. Gyarsi Lal and others, CR No.6318 of 2017 decided on 18.09.2017**.

I have heard counsel for the petitioner, perused the paper-book particularly the various annexures appended with the petition.

The petitioner filed CM No.25410-CII of 2017 for placing on record the documents Annexures A-1 and A-2 namely copy of enrollment form and some information obtained from the website of Excise and Taxation Department, Government of Punjab. Perusal of the documents (Annexures A-1 and A-2) simply indicates that in the address of the business premises of Manak Tala Brothers, it is stated to be outside hall gate, Amritsar but there is no reference to the address of the shop in question i.e. building/property No.43/16 situated near Bridge Porian, Adda Motran. From the documents sought to be relied upon by the petitioner, it is difficult to accept contention of the petitioner that in case the plaintiffs are permitted to get produce the records from the office of Excise and

Taxation Department, Amritsar, it would clinch the matter in controversy or enhance the cause of justice by facilitating the Court to decide the matter in controversy in a better way.

As per the settled position in law, a litigant cannot be allowed to use process of the Court for making roving inquiry and that too by seeking indulgence of the Court in exercise of its inherent jurisdiction under Section 151 CPC. In this view of the matter, I do not find any error much less illegality in the impugned order warranting intervention.

For the foregoing reasons, the petition fails and is accordingly dismissed *in limine*.

NOVEMBER 28, 2017 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no