

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

**CR No.911 of 2017 (O&M).
Date of Decision: 08.02.2017.**

Bhajan Singh		Petitioner.
	VERSUS	
Jagdeep Singh		Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Malkeet Singh, Advocate for the petitioner.

SNEH PRASHAR, J.

CM-2790-CII-2017

Allowed, as prayed for.

CR-911-2017

The instant petition has been filed assailing the order dated 18.11.2016 passed by learned Additional Civil Judge (Senior Division), Khamano by virtue of which the application seeking permission to produce documents by way of additional evidence of the petitioner-defendant was dismissed.

The submissions made by Mr. Malkeet Singh, learned counsel for the petitioner have been considered.

Learned counsel for the petitioner contends that an application for additional evidence was filed by the petitioner only for producing some documents in evidence. One of the document was copy of judgment and decree dated 21.09.2015 passed in Civil Suit No.3304 of 2013. The other documents were, a report dated 09.04.2012 of D.S.P. (City), Patiala; copy of statement of Jagdeep Singh-plaintiff; copy of order dated 04.09.2013 passed

in Civil Suit No.240 dated 27.08.2012 decided on 04.09.2013 and copy of order dated 21.08.2012 passed in a bail application. The petitioner-defendant learnt about the documents only after he had closed the evidence. Learned counsel asserted that additional evidence can be allowed by the Court if the evidence is essential to prove the case and the Court is satisfied that the evidence could not be led earlier despite best efforts and due diligence by the applicant or because the same was not within the knowledge of the party at the time of leading his evidence. The application of the petitioner for additional evidence has been wrongly dismissed by learned trial Court.

The impugned order dated 18.11.2016 passed by learned trial Court reveals that earlier also an application for additional evidence was filed by the petitioner which was allowed and one effective opportunity to produce evidence was granted. This was the second application filed by the petitioner which finding that the basic requirements for seeking relief of additional evidence could not be established, was dismissed. Indeed, the documents, which the petitioner intends to produce by way of additional evidence, were not such which were not in knowledge of the petitioner at the time when he was leading evidence or at the time when earlier he had moved an application for additional evidence which was allowed by learned trial Court. Otherwise also, learned counsel could not explain how the documents which the petitioner intends to tender by additional evidence are necessary for proper and complete adjudication of the case. It is reflected in the order by the trial Court that the case was fixed for rebuttal evidence on 13.07.2016 but could not be disposed of due to one or the other application

Having said the above, the fact is that one of the document which the petitioner intends to tender is a certified copy of the judgment and decree passed in a civil suit. Being a public document, the authenticity of which cannot be disputed, should have been allowed to be tendered in evidence. Accordingly, except for that document, there being no illegality or perversity in the order of learned trial Court, the instant petition being devoid of merit is dismissed. The petitioner will only tender the certified copy of the judgment and decree dated 21.09.2015 in his evidence.

(SNEH PRASHAR)
JUDGE

08.02.2017.
jitender sharma

Whether speaking/ reasoned : **Yes/ No**

Whether Reportable : **Yes/ No**