

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

**CR No.1612 of 2018 (O&M)
Date of decision : April 04, 2018**

Ran Singh

..... Petitioner

Versus

Satbir Singh and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Rajiv Sidhu, Advocate for the petitioner.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

Impugned in the present revision petition is the order dated 07.02.2018 (Annexure P-1) passed by learned Civil Judge (Jr. Divn.), Kurukshetra, vide which an application filed by the present petitioner-defendant No.7 for permission to lead additional evidence was dismissed.

Heard.

It comes out that respondent Satbir Singh has filed a civil suit against 10 persons for declaration, joint possession and permanent injunction. In the said case, the defendants availed 16 effective opportunities to lead the evidence and closed their evidence. Now, when the case is at the stage of rebuttal evidence and arguments, the present application has been filed. The present petitioner-defendant No.7 wants to produce the Registry Clerk of Sub-Registrar Office, Ladwa, to produce the record of registered Will, record of gift deed. He also wants to summon the Clerk of Record Room, District Court, Kurukshetra, along with record of Civil Suit No.621 of 2008, decided on 06.09.2008. He also wants to

examine one Joginder Singh, witness of the Will dated 11.10.2005. In addition to the said witnesses, he wants to produce the copy of the judgment dated 11.11.2008 passed by Shri Pankaj Aggarwal, Collector, Kurukshetra and the copy of the petition No.82 of 2007, decided on 18.08.2008 by the learned Civil Judge (Sr. Divn.), Kurukshetra.

Learned counsel for the petitioner contends that the petitioner was wrongly advised by the counsel that such evidence is not required. In this case, the Will has been challenged by the plaintiff. Now, he has been advised that such witnesses are necessary.

Learned counsel for the petitioner further contends that opposite party can be compensated by way of costs. Therefore, additional evidence should be allowed.

I am of the view that the provisions of Order XVIII, Rule 17(a) CPC, 1908 have already been deleted from the statute. The power to allow additional evidence is to be exercised under Section 151 CPC, 1908 in the interest of justice. In this case, 16 effective opportunities were granted to the defendants to lead evidence. There are 10 defendants. Out of which 9 have not come forward. Only one of the defendants has come forward. The witnesses sought to be produced were within the knowledge of the present petitioner. Under the amended provisions of the Code of Civil Procedure, 1908, only three opportunities are to be granted. However, the Court has granted more than sufficient opportunities numbering 16 to the defendants to lead evidence. Therefore, it cannot be said that sufficient opportunities were not given to the defendants.

Learned counsel for the petitioner has relied upon the judgment of ***“Gurdial Singh and others vs Mam Chand and others”, 2011(1) R.C.R.***

(Civil) 690 pertains to exercise powers under Order XLI, Rule 27(1)(aa) during the pendency of the appeal. The authority of ***“Reliance General Insurance Company Ltd. vs Ankush Dhingra and Anr.”, 2017(3) PLR 122***, is regarding a case pertaining to Motor Vehicles Claim, when the evidence of the claimant was closed and additional evidence was declined. The cases of motor vehicles accident is at different footing. The said authority does not lay down the general law.

After considering the facts and circumstances, I am of the view that sufficient opportunities were granted to the defendants to lead their oral evidence. Therefore, the witnesses sought to be produced by way of additional evidence cannot be allowed to be examined. However, the copy of the judgment dated 11.11.2008 and the copy of the petition No.82 of 2007, as referred above, can simply be tendered. Therefore, without issuing notice to the opposite party, the present petitioner-defendant No.7 is allowed to produce the copy of the judgment and petition as referred above, subject to just objection that may be raised by the opposite party, subject to costs of ₹2,000/-.

As such, the present revision petition is partly allowed. Since, the main petition has been partly allowed, therefore, pending application, if any, also stands disposed of.

(KULDIP SINGH)
JUDGE

April 04, 2018

sarita

Whether speaking / reasoned Yes

Whether Reportable: No