

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

**CR No.2873 of 2018 (O&M)
Date of Decision: May 03, 2018**

Gurlal Singh

...Petitioner

Versus

Resham Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

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

FATEH DEEP SINGH, J.

Heard, learned counsel for the petitioner and perused the records of the case. The petitioner initially filed a suit against the respondents for a dispute over a immovable property and upon conclusion of the trial when the defendants have also closed their evidence on 16.1.2018, the plaintiff has moved an application for additional evidence on 29.1.2018 for examination of certain witnesses.

It is the admitted stand of the petitioner side that nowhere in the list of witnesses the plaintiff has ever detailed of plaintiff's evidence that he wants to examine, especially, these witnesses when under the High Court amendment applicable to this Court lays down that no party who has begun to call his witnesses shall be entitled to obtain process to enforce the attendance of any witness against whom process has not previously issued, or to produce any witness not named in a list, which must be filed in Court on or before the date on which the hearing of evidence on his behalf commences. Though, with all fairness learned

counsel for the petitioner accepts that there has been no such recourse to this provision. Together with the fact that the amendment in Order 18 Rule 17A which stood deleted w.e.f. 1.7.2002 provisions of additional evidence has been dispensed with, however, at the same time, it does not completely bars the party from having recourse to it unless and until it shows to the satisfaction of the Court that in spite of exercise of due diligence such an evidence was not known to it or was unable to produce the same and which was necessary for judicious decision of the matter. In the present case, the plaintiff slept over the matter throughout the trial and at the time of arguments has suddenly woken up, apparently, with an oblique motive to fill in lacuna in his case which could not be allowed much to the prejudice to the other side. The Court below in the impugned findings has rightly concluded that application has been made malafidely as it would defeat the very purpose of fair trial much to the prejudice to the other party and did not find any justification in allowing the application. Apparently, there is no illegality or perversity in the impugned order. Thus, the present petition being hopelessly without any merits stands dismissed in limine.

(FATEH DEEP SINGH)
JUDGE

May 03, 2018
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No