

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

CR-3290-2018 (O&M)

Date of decision : 21.5.2018

Dr. Sandeep Sharma

..... Petitioner

Versus

Dr. Dalbir Singh and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Vineet Sehgal, 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 1.5.2018 (Annexure P-8), passed by learned Additional Civil Judge (Sr. Division), Panchkula vide which application filed by the plaintiff for leading additional evidence was dismissed.

Heard.

It comes out that in a suit for recovery, plaintiff earlier claimed that he is entitled to lead rebuttal evidence, which was allowed by learned trial Court. This Court after going through the issues framed vide the order dated 2.2.2018 passed in CR No.6147 of 2016 set aside the order dated 30.8.2016, passed by learned Additional Civil Judge (Senior Division), Panchkula whereby expert evidence was allowed to be led in rebuttal. Thereafter, an application for leading additional evidence was filed. Perusal of the provisions under Order XVIII Rule 17-A have been deleted from the Code of Civil Procedure, 1908 and additional evidence is to be allowed only

in exceptional circumstances under Section 151 of the Code of Civil Procedure, 1908.

I am of the view that documents on the basis of which recovery is sought, are the basis of the suit and plaintiff knew that he is required to prove the said documents. He led in affirmative evidence. On the said documents, it was for the plaintiff to see as to whether he want to lead oral evidence or lead expert evidence in addition to the oral evidence. Therefore, said evidence was within his knowledge. Now when the opposite party has brought the hand writing expert, plaintiff want to rebut the same by leading evidence of private hand writing expert. The science of hand writing expert is not perfect science. Therefore, it has to be collaborated by oral evidence. The evidence of expert was within the knowledge of the plaintiff when he was leading affirmative evidence.

In view of said fact, there is no ground to allow the additional evidence at this stage.

Dismissed.

(KULDIP SINGH)
JUDGE

21.5.2018
preeti

Whether speaking / reasoned	Yes
Whether Reportable:	No