

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

CR No.3741 of 2016
Date of decision : 03.04.2018

Charan Singh

...Petitioner

Versus

Virk Brothers and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. H.S. Diwana, Advocate for the petitioner.

Mr. Vijay Rana, Advocate for the respondents.

ANIL KSHETARPAL, J. (ORAL)

The defendant-petitioner is in the revision petition against the order dated 03.09.2015 passed by the trial Court, dismissing the application for amendment of the written statement.

It has been pleaded by the defendant that he does not want to lead any evidence as the documents which are sought to be pleaded are already part of the record, however, he apprehends that his evidence should not be treated beyond pleadings. The application has been contested by the plaintiff on the ground that the application is after the delay of 7 years as the original written statement was filed by him on 23.07.2008.

In this case, after the parties had concluded their evidence, the plaintiff filed an application for permission to lead additional evidence as there was confusion about certain entries in the account books. The present

suit has been filed by Virk Brothers who are working as Commission Agents alongwith Manjit Singh. It is not in dispute that Manjit Singh is also partner in another firm which is M/s Virk Commission Agents.

The defendant pleads that he has been selling crop through Manjit Singh and the entries have been made in the accounts of both the firms. He has brought on record in evidence the “J” form showing the sale of crop on different dates through M/s Virk Commission Agents, whereas the present suit for recovery has been filed by Virk Brothers. As noticed earlier, the defendant-petitioner has already made a statement that he does not want to lead any evidence as the documents have already been proved on file by leading evidence. At the cost of repetition, the application for additional evidence filed by the plaintiff was allowed on 19.11.2003.

Keeping in view the fact that the evidence is already available on the file and the defendant only wants to plead those facts, therefore, the revision petition is allowed. The order under challenge is set aside.

The defendant shall remain bound by his statement and would not be granted any opportunity to lead any evidence to prove the amended pleadings.

With these observations, the revision petition is allowed.

03.04.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No