

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.5322 of 2016 (O&M)
Date of Order: 24.05.2018

Naresh

..Petitioner

Versus

Smt. Roshni and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

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

Mr. Sumit Gupta, Advocate,
for respondent no.1.

ANIL KSHETARPAL, J(Oral)

Defendant-petitioner is in the revision petition against the order passed by the learned trial court refusing to permit the defendant to lead additional evidence so as to produce on file and prove certified copy of the plaint in a previous suit instituted between the parties and order passed thereon.

Learned counsel for the defendant-petitioner has submitted that the factum of previous litigation between the parties has been pleaded in the written statement. Petitioner herein was a defendant in a suit for specific performance of the agreement to sell. It is alleged that the plaintiff was previously tenant who was evicted and thereafter an agreement to sell was executed for sale of the rented premises. It is the positive assertion of learned counsel for the defendant-petitioner that this agreement to sell was not pleaded in the previous plaint.

Learned trial court has dismissed the application on the ground that the evidence sought to be produced was in the knowledge of the defendant who cannot be permitted to delay the trial or fill up lacunas in the case.

On the other hand, learned counsel for respondent no.1 has submitted that the trial of the case is at the fag end and interest of the plaintiff would be prejudiced if the additional evidence sought to be produced is brought on file. He further submitted that the defendant has already availed 14 opportunities for leading evidence.

This court has considered the submissions and carefully gone through the documents filed before this Court.

A reading of the written statement filed by the defendants proves that the previous litigation has been pleaded by them. It is the contention of learned counsel for the petitioner that the previous plaint and the order is already part of the file which is disputed by learned counsel for the respondent.

The case is still at the trial stage and rules of procedure are meant to advance justice rather than scuttle. In the present case, the documents which are sought to be produced are from the previous litigation about which there cannot be much dispute. Defendants are praying that the aforesaid documents would help the court in adjudicating the lis between the parties properly. Rather, it is the case of the defendant-petitioner that these documents were part of the file but inadvertently not exhibited.

Taking into consideration the aforesaid facts, this court is of the opinion that the application filed by the defendant-petitioner deserves to be allowed, hence, the same is allowed, subject to the payment of costs of

Rs.5000/-.

However, both the parties would be granted one effective opportunity to lead evidence, if any prayed for.

The revision petition is allowed.

May 24, 2018
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No