

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

CR No. 5124 of 2018
Date of Decision: 26.09.2018

Dev Raj

.....Petitioner

Versus

Ashok Kumar

.....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Sudhanshu Makkar, Advocate for the petitioner.

Mr. Akshay Kumar Goel, Advocate for the respondent.

DEEPAK SIBAL, J. (ORAL)

The present petition is directed against the order dated 19.07.2018, passed by the Civil Judge (Junior Division), Bhiwani (for short, the Trial Court), dismissing the application filed by the petitioner through which he had sought deletion of para 6 of the affidavit filed by the respondent in his examination-in-chief.

Briefly stated, the facts, which have occasioned the filing of the present petition are that the respondent filed a suit seeking therein ejectment of the petitioner from his shop which was detailed and described in the head note of the plaint (for short, the suit property). On being put to notice, the petitioner, who was the defendant in the suit, appeared before the Trial Court and filed his written statement denying the respondent's claim. Thereafter, the Trial Court framed issues, after which while examining himself as PW-1 the respondent filed an affidavit in his examination-in-chief. Thereafter, the petitioner filed an application seeking deletion of para 6 of the affidavit on the ground that the same was beyond pleadings and that the documents referred to in para 6 of the affidavit had neither been referred

to by the petitioner in his plaint nor had been filed by him at any time thereafter. The Trial Court dismissed the application, occasioning the filing of the present petition.

Learned counsel for the parties have been heard.

There is no dispute with the proposition of law that no reliance can be placed on the evidence which is beyond pleadings. However, the objection raised by the petitioner that the documents referred to and sought to be produced by the respondent during the course of his examination-in-chief, were beyond his pleadings and therefore, that the same should be struck off the record has been duly noted by the Trial Court and it had been then observed that the petitioner's objection would be considered at the time of final arguments.

Once the Trial Court has observed that it is not opining on the merits of the objection raised by the petitioner and that the same would be considered at the stage of final arguments, it is clear that the Trial Court has kept the issue open with regard to the genuineness, admissibility, reliability and authenticity as also the evidentiary value of the documents produced by the respondent. Merely because these documents have been exhibited does not mean that they have been proved. They can still be rejected at the time of final decision in the suit. Thus, no fault can be found in the impugned order warranting any interference.

Dismissed.

26.09.2018
sandeep

(DEEPAK SIBAL)
JUDGE

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