

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

Civil Revision No.6480 of 2018

Date of Decision:26.09.2018

Baljit Singh

..... Petitioner

Vs.

HDFC Bank and others

.... Respondents

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present: Mr.Rakesh Chopra, Advocate
for the petitioner.

AMOL RATTAN SINGH, J. (Oral)

Learned counsel for the petitioner submits that though it has been observed in the impugned order that the documents sought to be led by way of additional evidence at the stage of appeal were well within the knowledge of the petitioner/plaintiff and therefore, the application for producing them by way of additional evidence could not be allowed, however, he submits that non-exhibition of the said documents at the stage of the trial with them having been produced only as marked documents was not the fault of the petitioner but that of his counsel, for which the petitioner should not be penalised.

He further relies upon a judgment of the Supreme Court in “M/s. Eastern Equipment & Sales Ltd. vs. Ing.Yash Kumar Khanna”, 2008(4) CCC 001 (SC), to submit that the application under Order 41 Rule 27 of the CPC, should actually have been decided after hearing the contentions of the petitioner in his appeal, at the time of deciding the appeal itself.

Without going into details of the circumstances of the case before the Supreme Court, since the respondents are also stated to have been proceeded against *ex parte* in the appeal, this petition is allowed to the extent that the impugned order is set aside with the learned appellate Court directed to consider the application under Order 41 Rule 27 of the CPC, after hearing all the contentions raised on behalf of the petitioner/appellant, at the time of deciding the appeal itself.

It is made absolutely clear that this Court has expressed no opinion whatsoever on the merits of either the appeal of the petitioner or even on the application under Order 41 Rule 27 CPC.

Disposed of.

(AMOL RATTAN SINGH)
JUDGE

September 26, 2018.

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Whether speaking/reasoned : YES/NO
Whether Reportable : YES/NO