

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

116

CR No.7292 of 2016 (O & M)
Date of Decision:12.10.2018

M/s Banarsi Dass & Sons Sadar Bazar, Gurdaspur through
its Prop. Shri Banarsi Dass ...Petitioner

Versus

Joginder Pal Behal through his LRs and others
...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sandeep Jain, Advocate and
Mr. Davinder Kumar, Advocate
for the petitioner.

None for the caveator-respondent.

Mr. Parveen Sharma, Advocate
for respondent No.2.

ANIL KSHETARPAL, J.(Oral)

In the present case, tenant-petitioner is in the revision petition as the eviction has been ordered by the Court on the ground of personal necessity. Tenant during the pendency of the first appeal had filed an application for permission to lead additional evidence so as to bring on record the following three documents:-

*“(i) Certified copy of the Execution application
No.18/15.9.2012 titled Yoginder Pal V/s Vijay Kumar
Puri and another”.*

(ii) Certified copy of order dated 28.9.2013 passed

*in the Execution application No.18/15.9.2012 titled as
Yoginder Pal v/s Vikay Kumar Puri and another and*

*(iii) Certified copy of site plan of the shop
regarding which possession was taken by the
applicant/landlord in execution application
No.18/15.9.2012 titled Yoginder Pal v/s Vijay Kumar
Puri and another.”*

It is the case of the tenant that during the pendency of the present proceedings shop No.1 has come in possession of the landlords.

Learned Appellate Authority dismissed the application on the ground that the aforesaid additional evidence, which is sought to be produced, does not go to the root of the case.

In the considered view of this Court, Appellate Authority being last Court for appreciation of evidence should be liberal in admitting additional evidence particularly once by way of additional evidence, pleadings in other proceeding sought to be produced. This Court is purposely not deliberating upon the merits of the case lest it may prejudice any of the party. The order passed by the learned Appellate Authority dismissing application for additional evidence is clearly erroneous and, therefore, set aside. The application for additional evidence is allowed. Both the parties would be granted two opportunities each to lead their evidence. Thereafter, the Appellate Authority would re-decide the appeal in accordance with law.

Parties through their counsel are directed to appear before the Appellate Authority on 01.11.2018. Appellate Authority is requested to

decide the appeal positively within a period of six months.

Revision petition is disposed of.

All the pending miscellaneous applications, if any, are disposed of, in view of the above said judgment.

12.10.2018

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(ANIL KSHETARPAL)

JUDGE

Whether Speaking/Reasoned: Yes/No

Whether Reportable : Yes/No