

Anil

.....Petitioner

Versus

Shashi Devi and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBALPresent: Mr. Kul Bhushan Sharma, Advocate
for the petitioner.**DEEPAK SIBAL, J. (ORAL)**

The present petition is directed against the order dated 09.10.2018, passed by the Civil Judge (Junior Division), Rewari (for short, the Trial Court) dismissing the petitioner's application filed by him for leading additional evidence.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that respondent No.1 filed a suit seeking therein a decree for mandatory injunction to the effect that the defendants in the suit be directed to remove the encroachment made by them which was detailed and described in the plaint (for short, the suit property). Permanent injunction to restrain the defendants from creating any hindrance and obstacle in the enjoyment of the suit property was also sought. On being put to notice, the petitioner, who was defendant No.3 in the suit, put in appearance before the Trial Court and filed his written statement through which he controverted the claim set up by respondent No.1/plaintiff. After framing of issues by the Trial Court, both parties led their respective evidence and when the matter was listed for final arguments, the petitioner filed an application seeking therein to adduce additional evidence which was

rejected by the Trial Court through the order under challenge in the present proceedings.

Learned counsel for the petitioner has been heard.

It is not disputed that the petitioner/defendant No.3 was granted as many as fourteen effective opportunities to lead his evidence and that on 29.08.2018 when the petitioner's evidence was closed, a request was made on his behalf to produce documentary evidence which was specifically declined through order dated 29.08.2018 which was never challenged by the petitioner. Further, the Trial Court has categorically found that the documents sought to be produced by way of additional evidence were well within the knowledge of the petitioner at the time when he was leading his evidence and that the present application has been filed only with the intention to delay the proceedings. Nothing has been pointed out before this Court to show any error in such findings.

Dismissed.

October 26, 2018
sandeep

(DEEPAK SIBAL)
JUDGE

Whether Speaking/Reasoned : Yes/No

Whether Reportable : Yes/No