

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

103

CR-8239-2014 (O&M)

Date of Decision : 04.09.2018

Sudershan Sewa Trust, Amritsar

..... Petitioner

Versus

M/s Vishnu Processors, Amritsar and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present :- Mr. Sharad Mehra, Advocate
for the petitioner.

Mr. Anil Chawla, Advocate
for the respondents.

AJAY TEWARI, J. (ORAL)

This petition has been filed against an order dated 20.11.2014 declining an application of the petitioner whereby he prayed that certain documents placed on record by the respondents be de-exhibited. By the impugned order the trial court dismissed the application for immediate de-exhibition of the documents and held that the objections will be considered at the stage of final arguments.

Counsel for the appellants has relied upon the judgment of this Court in the matter of *Girdhari Lal vs. Ritesh Mahajan and another, 2005(2) R.C.R. (Rent) 426*. In that case, the respondents had placed photostat copies of certain documents on record as Ex.AW-4/1 to AW-4/7 and on an objection being made, the trial court had stated that the objections would be decided at the time of final arguments. Counsel for the petitioner has relied upon paragraph No.6 of that judgment where this Court held as follows:-

“Thus, in view of the observations in the above noted decisions, the Rent Controller was obliged to first decide the question of admissibility of the documents before making endorsement thereon. The approach of the Rent Controller to postpone the consideration of the objection raised by the petitioner to the stage of final arguments is legally unsustainable.”

Counsel for the respondents, however, points out that in that judgment reference had been made to the decision of Supreme Court in the matter of ***R.V.E. Venkatachala Gounder vs. Armulmigu Viswesarasswami & V.P. Temple and others, 2003(4) RCR (Civil) 704.*** It is pointed out that in paragraph No.19 of that judgment, the Supreme Court had categorized objections to the exhibition of documents into two categories, one where it was the contention that the documents were inadmissible in evidence per se and two where the objections were as regards the mode of proof. As regards the first case, the Supreme Court had clearly held that an objection regarding the exhibition of said documents could be taken up and decided at any stage but as regards the documents the exhibition of which was objected on the ground of mode of proof, that objections had to be taken at the time when the document was exhibited (and not later) and decided then and there.

Counsel for the respondents further points out that in this case the objection taken by the petitioner is not only to the mode of proof but to the very admissibility of the documents.

I find this to be indeed so. Consequently, the judgment of this Court in Girdhari Lal (supra) would have no applicability in the present case as the facts of that case are totally dissimilar because here

objections were as regards the mode of proof and as regards the admissibility.

Counsel for the appellant is not in a position to deny this fact. However, he has further relied upon the judgment of this Court in the matter of *Jasjit Singh and another vs. Prem Harjit Singh and another, 2013(1) R.C.R.(Civil) 514*. That was a case where objection was taken to the exhibition of certain documents on the ground of their admissibility (and not mode of proof) and their also the trial court had deferred the consideration of that application to the stage of final arguments and this Court after considering the judgment of R.V.E. Venkatachala Gounder (supra) had held that the said objections could not be postponed.

I have gone through that judgment. In my considered opinion, the essential distinction which their Lordship had pointed out in the judgment has escaped consideration. At the cost of repetition, it is mentioned that the Supreme Court had specifically declared that objections with regard to exhibition of documents are in two classes and had stipulated that both classes of objections have to be treated separately and not similarly and had that been the intention of Their Lordships, it could have been very easily so said. In the circumstances, I find myself bound by the decision of the Supreme Court.

Petition is dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

September 04, 2018
ashish

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No