

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

Sr. No.206

C.R. No.4649 of 2018

Date of decision: 30.01.2019

Sarabjit Singh and another

....Petitioners

versus

Charanjit Kaur and others

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. P.S. Punia, Advocate
for the petitioners.

None for respondents No.1 and 2.

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DEEPAK SIBAL, J. (Oral)

The petitioners filed an application before the Civil Judge (Junior Division), Khanna (for short – the Trial Court) under Order 39 Rule 2-A read with Section 151 CPC alleging therein that by interfering in their possession of the suit property respondents No.1 to 3 had violated the interim stay order passed by the Trial Court on 23.04.2010. During the course of such proceedings, the petitioners filed an application to permit the petitioners to lead additional evidence in the form of a copy of the application given by the petitioners to the police alleging trespass by respondents No.1 to 3 as also to bring on record a copy of the report given by DSP, Payal on the aforesaid application. The petitioners further sought permission to produce as witnesses the concerned official from the office of SSP, Khanna and also the author of the aforesaid report. Through order dated 31.05.2018, the Trial Court while allowing the petitioners' application permitted them to bring on record copy of FIR dated 23.05.2018. However,

since there was no such FIR in existence the petitioners filed the present petition for the issuance of directions to the Trial Court to permit them to lead additional evidence as prayed for by them. While the present petition was pending before this Court, on 19.07.2018, the Trial Court reviewed its earlier order dated 31.05.2018 and permitted the petitioners to bring on record copy of the application dated 12.06.2017 submitted by them to SSP, Khanna as also a copy of the report by DSP, Payal. However, no permission was granted to produce the official from the office of the SSP, Khanna, who had dealt with the petitioners' application as also DSP, Payal, who was the author of the aforesaid report.

Learned counsel for the petitioners has been heard.

The contesting respondents No.1 and 2 were served but no one put in appearance on their behalf. On 20.09.2018, learned counsel for the petitioners had stated that he does not press the present petition qua respondents No.3 and 4.

Once through the order dated 19.07.2018, the Trial Court has permitted the petitioners to bring on record additional evidence in the form of their application made by them to the SSP, Khanna as also report of DSP, Payal, which order has not been challenged by the respondents, the Trial Court should have permitted the concerned official from the office of SSP, Khanna as also the author of the aforesaid report to be examined as without such examination the aforesaid documents would virtually have no evidentiary value.

In view of the above, the present petition is allowed with a direction to the Trial Court to permit the petitioners to examine the concerned official from the office of the SSP, Khanna as also DSP, Payal,

who is the author of the aforesaid report.

Needless to say that the respondents shall be granted effective opportunities to cross-examine the aforesaid witnesses and lead evidence, if any, in rebuttal, in accordance with law.

(DEEPAK SIBAL)
JUDGE

January 30, 2019
Jyoti 1

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