IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 102 CR-5661-2017 (O&M)
Date of decision : 21.02.2019

Vicky Sidana ..... Petitioner

VERSUS

Harbans Lal Sidana and another ..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Vikram Anand, Advocate, for the petitioner.

Mr. Manuj Nagrath, Advocate, for the respondents.

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DEEPAK SIBAL, J. (ORAL)

The present petition is directed against the order dated 20.07.2017, passed by the Civil Judge (Junior Division), Jalandhar (for short, the Trial Court), through which an application filed by the petitioner under Section 151 CPC for leading additional evidence has been dismissed.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that the respondents, who are the parents of the petitioner, way back in May, 2013 filed a suit seeking therein dissolution of a firm known as M/s Vicky Handloom (for short, the firm). Rendition of accounts of the firm was also sought. On being put to notice, the petitioner, who is the defendant in the suit, appeared before the Trial Court and through his written statement denied all the respondents' claims. Thereafter, the Trial Court framed issues on which both the parties led their respective evidence. When the matter was listed for final arguments, the petitioner filed an application seeking therein to lead additional evidence. Such application was dismissed through the order which is impugned in the present proceedings.

Learned counsel for the parties have been heard.

In May, 2013, the respondents, who are the petitioner's parents, filed a suit seeking therein dissolution of the firm in which the respondents and the petitioner were said to be partners. Rendition of accounts of the firm was also sought. After framing of issues the respondents concluded their evidence. The petitioner also concluded his evidence after availing as many as 33 opportunities. When the matter was listed for final arguments the petitioner filed an application seeking therein to lead additional evidence in the form of production of additional witnesses. A perusal of such application reveals that it is absolutely vague as it has nowhere been mentioned therein as to who is sought to be produced as a witness. No explanation is also found in the petitioner's application as to why the additional evidence which he now seeks to produce was not led by him within the 33 opportunities granted to him by the Trial Court to lead his evidence.

According to the learned counsel for the petitioner when DW-2 Vinod Kumar, an official of State Bank of Patiala (now State Bank of India) had appeared before the Trial Court he had produced bank records as per which ₹13,77,056/- had been transferred by the firm to M/s Pooja Hosiery, Ludhiana. After going through DW-2 Vinod Kumar's statement the petitioner filed the application for leading additional evidence for summoning additional witnesses to ascertain the nature and basis of such transfer of funds.

The above submission of learned counsel for the petitioner merits rejection.

The petitioner was always in possession of the bank records which contained the aforesaid entries with regard to transfer of funds by the firm to M/s Pooja Hosiery, Ludhiana. Therefore, he could and should have produced evidence with regard to these entries within the 33 opportunities granted to him by the Trial Court to lead his evidence.

In the written statement filed by the petitioner he had specifically stated therein that the firm stood dissolved on 31.03.2012 and at that time claims and liabilities of all the partners had been settled. Presumably, the aforesaid entries of transfer of funds by the firm to M/s Pooja Hosiery, Ludhiana which are dated March/April, 2011 would also have been settled. Therefore, as per the petitioner's own saying he was in the knowledge of the transfer of money by the firm to M/s Pooja Hosiery, Ludhiana way back in the year 2012 but he filed the instant application for leading evidence for ascertaining the nature and basis of these entries only in the year 2017 when the suit was listed for final arguments.

The petitioner took 33 opportunities to lead his evidence. When the matter was listed for final arguments he filed an application for recalling of respondent No. 1 for his re-examination. On dismissal of such application the instant application was filed. Thus, he has managed to delay the decision in respondents' suit for nearly six years. Such delaying tactics need to be discouraged and therefore, the present petition is dismissed with costs which are quantified at ₹25,000/-.

21.02.2019 [DEEPAK SIBAL]
shamsher JUDGE

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