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

**Civil Revision No.1108 of 2019
Date of Decision: 15.02.2019**

M/S. RAJESH KUMAR AND SONS.

.....Petitioner

Vs

M/S. HARI SINGH MAM CHAND COMMISSION AGENT

....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. Parminder Singh, Advocate
for the petitioner.

RAJ MOHAN SINGH, J. (Oral)

In the earlier Civil Revision No.5445 of 2018 filed by the petitioner, challenge was made to the order dated 17.08.2018 passed by the Addl. District Judge, Karnal, vide which the application under Order 41 Rule 27 CPC for leading additional evidence was allowed. Respondent was allowed to bring on record documents viz. *Bahi Khata*, *Roznamcha*, Sales Tax Return and Income Tax Returns etc.

This Court vide order dated 19.11.2018 passed in the aforesaid revision petition, remitted the case to the First Appellate Court to decide the application under Order 41 Rule 27 CPC keeping in view the provisions of Section 107 CPC.

The Addl. District Judge, Karnal while taking cognizance of remand case has decided the issue by allowing the plaintiff to lead additional evidence. Plaintiff has been permitted to prove the aforesaid documents by way of additional evidence by availing two opportunities. The impugned order has been passed on the premise that as per cross-examination of DW-1 Rajesh Kumar Goel, factum of purchase of paddy by the plaintiff's firm in the year 2009-10 was *prima facie* established, but the witness did not remember as to the quantity of paddy purchased and for what amount the same was purchased. The payment of the purchased paddy was made though cheque, but the particulars of cheque viz. a-viz. Number and the amount were not known to the witness. The witness could not tell after how many days his Firm made the payment to the plaintiff's firm. Since the transaction was mentioned in the record i.e. account book, therefore, the said document was considered necessary to be produced by way of additional evidence, because the documents would facilitate the court to decide the case appropriately.

It is settled principle of law that if something remains obscure, the same can be permitted to be filled in by way of additional evidence in order to enable the Court to decide the controversy in an effective manner.

In my considered opinion, the indulgence granted by the Addl. District Judge, Karnal vide the impugned order by allowing production of additional evidence cannot be faulted with. This revision petition is accordingly dismissed.

February 15, 2019

Atik

Whether speaking/reasoned
Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No
Yes/No