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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-3268-2019 (O&M)
Date of decision : 17.5.2019

Karam Chand

..... Petitioner

Versus

Shri Vishal Verma

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. R.S. Sathi, Advocate for the petitioner.

KULDIP SINGH, J.

Heard.

Impugned in the present revision petition is the order dated 30.4.2019, (Annexure P-4), passed by learned Additional Civil Judge (Senior Division), Panchkula vide which an application for permission to lead additional evidence was dismissed.

It comes out that the plaintiff-petitioner filed a suit for mandatory injunction for directing the defendant to submit the rendition of account of interest from 21.3.2016 to till date of filing the suit.

A perusal of the impugned order dated 30.4.2019 shows that the plaintiff availed as many as 17 opportunities including 11 last opportunities but failed to conclude the evidence. Ultimately, the evidence was closed by order. Thereafter, the defendant led the evidence and now the case is fixed for rebuttal and arguments, which means that the case is effectively fixed for arguments. Now an application has been moved for additional evidence for obtaining sample writings of the defendant-Vishal Verma and his father and permitting the hand writing and finger print expert

to compare the same with the writing on document *Mark A*.

It is further stated that defendant appearing as DW-1 denied the writing of *Mark A* and for this purpose comparison is required.

Learned counsel for the plaintiff-petitioner does not dispute that even in the written statement, defendant had denied the writing claimed by the plaintiff, therefore, the positive evidence was to be led. The petitioner-plaintiff availed as many as 17 opportunities including 11 last opportunities against the three opportunities, permissible under the Code of Civil Procedure, 1908. Now when the case is ripe, plaintiff-petitioner want to fill up the lacuna by leading additional evidence under Section 151 of the Code of Civil Procedure which is in fact a back door entry to reopen the case.

Learned counsel for the petitioner relies upon a ruling of this Court contained in *CR-8258-2017*, titled as ***Municipal Corporation Hisar and another vs. Dilawar Singh*** decided on 24.5.2018. A perusal of the said ruling shows that in the said case only official documents were to be produced but in that case 11 last opportunities were not granted to the plaintiff-petitioner as in the present case. Therefore, I find that the facts of the said case are not attracted in the present case.

In view of above, no illegality or infirmity is found in the impugned order dated 30.4.2019, (Annexure P-4), passed by learned Additional Civil Judge (Senior Division), Panchkula.

Dismissed.

(KULDIP SINGH)
JUDGE

17.5.2019
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Whether speaking / reasoned
Whether Reportable:

Yes
No