

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

CR-576-2021

Date of Decision: 10.03.2021

M/S Ganga Ram Suresh Kumar and Another	...Petitioners
VERSUS	
M/S Jai Singh	..Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Saurabh Dalal, Advocate for
Mr. Kamal Mor, Advocate,
For the petitioners.
(Presence marked through video conference).

ARUN MONGA, J. (ORAL)

Petition herein under Article 227 of Constitution of India is for setting aside the order dated 16.02.2021 passed by Additional Civil Judge (Sr. Division), Gohana whereby an application filed by the petitioner/defendant for adducing additional evidence has been dismissed.

2. Learned counsel for the petitioners submits that respondent/plaintiff filed a suit for recovery of Rs.4,71,759/- . Upon notice, reply was filed by the defendants. Defendant's evidence was closed on 02.03.2020. He submits that a meeting was held in *Mandi* and a committee of 5 members was constituted for distribution of amount to the creditors by liquidation of petitioner's property in 2017 but the list was not handed over to the petitioner. The respondent was also one of the creditors in the list. After 02.03.2020, petitioners received the copy of details of amount repaid by the committee members to creditors. Then, petitioner filed an application dated 13.03.2020 for adducing additional evidence to prove his case and the same was dismissed vide impugned order dated 16.02.2021.

3. I have heard learned counsel for the petitioner and gone through the case file.

4. Position being clear in law that the evidence is to be led only qua the pleadings of the parties and anything beyond the pleadings is not admissible. A perusal of the written statement would reveal that there is no reference of the facts qua which the additional evidence is sought to be adduced and, therefore, no interference is called for in the order dated 16.02.2021 passed by the trial Court impugned herein, which is premised on the following reasoning:

“There is no mention of any committee in the written statement of the defendants. The whole defence taken by the defendants in the written statement was that the account of the plaintiff was closed on 03.03.2017 by invoice/bill and now there is nothing due. The defendants cannot be allowed to take a new defence at the stage of rebuttal evidence because a party cannot be allowed to lead evidence beyond its pleadings. Moreover, defendants/applicants mentioned in the application that the committee for liquidation was constituted in the year 2017 and the present application has been filed on 13.03.2020, i.e., after a gap of almost 3 years. The only reason as alleged by the applicant/defendants for this delay is that the applicants could not convince the committee to give any details. But this itself is not sufficient to seek the relief of additional evidence at this stage. If this evidence was so essential for the applicants/defendants and they were also aware about the same, they should have moved proper application at the initial stage of hearing, but it was not done.”

5. In view of the aforesaid, valid reasons have been recorded by the trial Court while dismissing the application filed by the petitioner for adducing additional evidence that too at the rebuttal stage. Instant petition is dismissed.

March 10, 2021

Vandana/ Jiten

(ARUN MONGA)

JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No