

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR No. 2281 of 2021 (O&M)
Date of decision : 8.10.2021

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Davinder Singh @ Devinder Singh

.....Petitioner

vs.

Balkar Singh

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Amit Chaudhary, Advocate for the petitioner.

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H. S. Madaan, J.

Case taken up through video conferencing.

Briefly stated, facts of the case are that, plaintiff – Balkar Singh had filed a suit against Davinder Singh @ Devinder Singh, craving for issuance of mandatory injunction directing the defendant to allow the plaintiff to measure the whole area of construction of the house of the defendant situated at Lakad Mandi, Barara, through a draftsman as per the terms of agreement dated 1.12.2012 and to release the payment of the plaintiff as per measurement @ Rs.1050

per square feet, contending that at request of defendant, the plaintiff had carried out the construction work and amount is payable by the defendant to the plaintiff.

On getting notice, the defendant appeared and filed written statement contesting the suit raising various legal objections denying that any amount remains to be payable by the plaintiff. Issues on merits were framed. Parties were given adequate opportunity to lead evidence and when the case was at the final stage for arguments, then an application under Section 151 Cr.P.C. was moved on behalf of the defendant for placing on record the bills of work got done by the defendant stating that when counsel for the defendant was preparing arguments, it came to his notice that due to inadvertence and omission on his part the bills/receipts of the work got done by the defendant was not exhibited by him while tendering the other documents in the court though the same are very necessary for the just decision of the case in hand. The application was resisted by the plaintiff. Vide impugned order dated 27.8.2021, the said application was dismissed by the trial Court of Civil Judge (Junior Division) Ambala, which left the defendant aggrieved and he has filed the present revision petition, praying that the impugned order be set aside and his application be allowed.

I have heard learned counsel for the revisionist, besides going through the record and I find that the revision petition does not have any merit and is doomed for failure.

The application in hand could not possibly be allowed

because the bills in question should have been produced in evidence by the defendant when the case was fixed for that purpose. The concerned person who had issued the bills or some other person conversant with his hand writing as the case may be, could have been summoned to prove those bills. The bills are not documents which are per se admissible. Therefore, there is no question for counsel for the defendant placing on record bills and exhibiting them. Even if that is allowed, the bills having not been proved in accordance with law, would be pieces of waste paper only. No value could be attached to those bills and they could not be taken into consideration. The trial Court has observed that conduct of the defendant does not entitle him to move the application. The case in question relates to year 2014 i.e. more than 7 years old. The defendant has availed of 9 effective opportunities to conclude his oral evidence and thereafter three opportunities to lead his documentary evidence, but he did not produce the said bills/receipts in evidence and the application in question was filed very belatedly when case was fixed for rebuttal evidence. The trial court was of the view that if such kind of applications are entertained at the fag end of the trial then there would be no end to the litigation.

The impugned order passed, is quite detailed and well reasoned and does not suffer from any illegality or infirmity. The application so moved by the defendant was rightly dismissed by the trial court. No interference with the said order on part of this Court by exercising the powers under Article 227 of the Constitution of

India, is called for. The revision petition being without any merit, stands dismissed.

8.10.2021
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(H.S. Madaan)
Judge

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