

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

Sr. No.126

CR-3396-2021 (O&M)

Date of Decision: 20.12.2021

RAJBALA

... Applicant/Petitioner

VERSUS

DHARAMBIR AND OTHERS

...Non-applicants/Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr. Surinder Singh Duhan, Advocate,
for the applicant-petitioner.

ARCHANA PURI, J. (ORAL)

CM-14380-CII-2021

The matter has been taken up through video conferencing
in the light of COVID-19 pandemic.

This is an application filed for seeking exemption from
filing certified as well as true typed copies of Annexures P-1 to P-4.

In view of the averments made in the application, same is
allowed, subject to all just exceptions.

CR-3396-2021

Heard on the petition.

The present petition has been filed to set aside the
impugned order dated 22.11.2021 (Annexure P-4), vide which,
application for adducing additional evidence in the suit pending before
the lower Court was dismissed.

It is now submitted by learned counsel for the petitioner
that the learned Lower Court had wrongly dismissed the application for
additional evidence, even though, the documents, which were required
to be produced were of vital importance.

Perusal of Annexure P-1 reveals that initially, Dharambir
(respondent No.1 herein) had filed a suit for malicious prosecution and

the present petitioner Rajbala is impleaded as defendant No.1 before the Lower Court. During the pendency of the case, an application for leading additional evidence was filed by the present petitioner. Copy of the application for additional evidence is annexed as Annexure P-2. A perusal of the same reveals that the petitioner/defendant No.1 had filed application for additional evidence, thereby stating that the plaintiff must have produced the copies of FSL report, specimen signatures of Rajbala, application dated 21.09.2010 moved before District Town Planner, Jind by Rajbala, affidavit attached with the said application and draft deed in case FIR No.56 dated 17.03.2011 under Sections 420/467/468/471/406/506 IPC, registered at Police Station, Jind Sadar.

However, at the time of preparation of the final arguments, it was found by the petitioner that no such document had been produced by the plaintiff on the case file. As such a prayer was made for leading additional evidence.

It is pertinent to mention that while dismissing the application for additional evidence in Paragraph 4 of the impugned order, it has been categorically observed by the learned Lower Court that the present petitioner, who is making appearance as defendant No.1 before the Lower Court had availed 9 opportunities for their evidence from 12.09.2018 till 09.01.2019, when their counsel had closed the evidence. It was only thereafter, the present application for additional evidence was moved, after 22 opportunities for rebuttal evidence had been given. It thus shows that it was after much time of closure of the evidence by the defendant himself that the present application was moved. The documents, which were intended to be produced in additional evidence were already in existence at the time when the case

of the petitioner was fixed for adducing evidence. However, at that stage, no documents as such have been produced. It was only thought that the said documents must have been produced by the plaintiff. It was required on the part of the petitioner also, to remain vigilant and produce the document at the appropriate stage, if need be. In the application, it is stated that it was at the time of preparation of final arguments, it was found that no documents have been produced by the plaintiff. Even, if it be so, the defendant could have produced the said documents at the time, when the case was taken up for recording of their evidence. However, it was not produced.

Considering the aforesaid circumstances and more particularly, when the documents were already in existence and the petitioner was having knowledge of the same at the stage, after grant of about 22 opportunities for leading the rebuttal evidence, as observed in the impugned order, no case was made out for allowing the application for additional evidence and, as such, the same has rightly been dismissed by the learned Lower Court.

Accordingly, the instant civil revision petition is hereby dismissed.

(ARCHANA PURI)
JUDGE

20.12.2021

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No