

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

CR-4468-2018 (O&M)

Date of decision: 10.11.2022

Anand (since deceased) through his LRs

....Petitioner

Versus

Jai Bhagwan

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. S.K.Hooda, Advocate for the petitioner

Ms. Sharmila Sharma, Advocate for the respondent

ANIL KSHETARPAL, J (Oral)

Assailing the correctness of the First Appellate Court's impugned order for permission to lead additional evidence, the defendant has filed the present revision petition. The First Appellate Court has noticed that though the defendant while filing the written statement did not assail the validity of the agreement on the ground the defendant was minor but in evidence the defendant led evidence in support of the minority plea resulting in the dismissal of the suit filed by the plaintiff. In such circumstances, the First Appellate Court has permitted the plaintiff to prove his school certificate as well as the voter list of the defendant in order to establish his age.

Heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

Learned counsel representing the petitioner contends that the plaintiff has wrongly been provided with opportunity to lead additional evidence during the pendency of the first appeal, particularly

when he could have filed an application before the trial court for permission to lead the additional evidence.

This Court has considered the aforesaid submission. Learned counsel representing the petitioner does not dispute that the defendant while filing the written statement never asserted the aforesaid fact. In such circumstances, the plaintiff had to face this situation when the defendant led his evidence in support of his minority plea, for the first time during the final arguments. Despite the said fact, the trial court dismissed the suit.

In view of the aforesaid facts, no ground to interfere is made out.

Hence, dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

10.11.2022

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE