

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

117

CR-737-2020

Date of decision: 21.03.2022

Mangal

.....Petitioner

Versus

Land Scape Builders Limited, New Delhi and anr

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Keshav Pratap Singh, Advocate for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

The petitioner-plaintiff No.1 is impugning the orders dated 25.04.2019 passed by the learned Additional District Judge, Gurugram (Annexure P/6) vide which the appeal preferred against the order dated 29.02.2016 of the learned Civil Judge (Jr. Divn.), Gurugram was dismissed. In addition, a challenge has been laid to an order of even date vide which an application filed by the petitioner-plaintiff No.1 under Order 41 Rule 27 for leading additional evidence was dismissed.

Learned counsel for the petitioner submits that the impugned orders deserve to be set aside as they were passed without appreciating the fact that the learned appellate Court had partly allowed the appeal in the main case in favour of the petitioner vide judgment dated 20.10.2016. He further submits that due to inadvertence the certified copy of the judgment dated 20.10.2016 could not be placed on record whereby it was held that the petitioner-plaintiff No.1 and plaintiff No.2 had been in possession of the suit property since long and they could not be dispossessed.

Learned counsel submits that it would result in miscarriage

of justice and his case would be gravely prejudiced if the above said judgment dated 20.10.2016 passed by the learned appellate Court is not permitted to be placed on record by way of additional evidence moreso, since it was material for the just adjudication of the dispute in question.

In view of the above, without issuing notice to the respondents, to avoid any further delay as well as the expenses which they shall have to incur to defend these proceedings coupled with the fact that certified copy of the judgment is *per se* admissible, the impugned orders dated 25.04.2019 are set aside. The instant revision petition is allowed subject to payment of costs in the sum of Rs.10,000/- to be paid to the respondents which shall be a condition precedent. The appellate Court would decide the case i.e. Civil Misc. Appeal No.92 of 28.03.2016/06.11.2017 (CIS No.CMA-51-2016) afresh in accordance with the provisions of law, after the certified copy of the judgment dated 20.10.2016 has been placed on record by the petitioner-plaintiff No.1.

It is made clear that the petitioner-plaintiff No.1 is being granted only one effective opportunity to lead additional evidence by placing on record the copy of certified judgment dated 20.10.2016.

21.03.2022

Vinay

**(MANJARI NEHRU KAUL)
JUDGE**

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