

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

145

CR-2042-2022

Date of decision: 17.08.2022

JASVIR SINGH BAL

..Petitioner

Versus

CHANAN SINGH AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

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

Mr. Ramesh Sharma, Advocate
for respondent No.4 and 5.

ANIL KSHETARPAL, J(Oral)

The petitioner herein is the plaintiff in a suit for recovery of Rs.1,15,09,278/-. The petitioner claims to be an agriculturist, whereas, defendant No.2 to 4 are proprietors/owners of the Friends Goods Store. The plaintiff claims that he stored his potato crop with defendants against various receipts but when he went to collect the same in the month of October, he was astonished to note that defendant No.2 to 4 have sold the entire stock of potato belonging to the plaintiff. Thus, the suit for recovery has been filed.

During the pendency of the suit, the plaintiff's application for permission to lead additional evidence, in order to produce and prove original bank statement of ICICI and AXIS Bank, lease deed, transport receipt which were not earlier traceable, has been dismissed by the trial Court on the ground that after deletion of Order XVIII Rule 17-A of the Code of Civil Procedure, 1908 (hereinafter referred to as 'the CPC'), the application for additional evidence cannot be filed. The Court has also held that the plaintiff has failed to explain the reasons for non-production of the aforesaid documents while leading evidence in affirmative.

This Bench has heard the learned counsel representing the petitioner at length and with their able assistance perused the paperbook.

On the one hand, the learned counsel representing the petitioner contends that these documents would prove the turnover of the petitioner which would help the Court in deciding the suit.

On the other hand, the learned counsel representing defendants contend that the story put-forth by the plaintiff is not believable.

The first reason assigned by the Court is erroneous as the Court has inherent power to permit the parties to lead evidence/supplementary evidence/additional evidence in order to advance the cause of justice. Rules of procedure are handmaid for advancing the cause of justice. Under Section 151 of the CPC, the Court has inherent power to pass any order in the interest of justice unless explicitly debarred by a specific provision. In appropriate cases, the Court is not debarred from permitting a party to the suit to lead additional evidence. The observation made by the trial Court, that no application for permission to lead additional evidence can be filed, is erroneous.

The plaintiff has specifically pleaded that the aforesaid documents were not traceable when the plaintiff led his affirmative evidence. Most of the documents sought to be produced are expressed to be reliable and genuine unless proved to be incorrect or wrong. The chances of interpolation and manipulation in the bank statements of ICICI Bank and AXIS Bank are remote. The plaintiff has filed the suit after paying a huge amount of Court fee.

Keeping in view the aforesaid facts, the order under challenge is set aside.

The plaintiff shall have liberty to produce and prove the documents sought to be produced in the application for additional evidence.

The defendants shall also be granted counter opportunity to lead evidence.

With these observations, the revision petition is allowed.

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

August 17th, 2022
Ay

(ANIL KSHETARPAL)
JUDGE

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