

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

CR 1629 of 2021 (O&M)

Date of Decision: February 22, 2022

Gurbaj Singh ...Petitioner

Versus

Gurnam Singh and another

... Respondents

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. Rakesh Gupta, Advocate
for the petitioner.

Mr. S.S. Sahu, Advocate
for respondent No.1.

Service of respondent No. 2-dispensed with.

FATEH DEEP SINGH, J. (Oral)

The matter has been taken up through Video conferencing on account of outbreak of pandemic COVID-19.

The instant revision by Gurbaj Singh has come about seeking to challenge the orders dated 10.08.2021 of the Court of learned Additional Civil Judge (Senior Division) Ratia, whereby, application for additional evidence moved by the plaintiff now respondent stood allowed.

Heard Mr. Rakesh Gupta, Advocate for the petitioner and Mr. S.S. Sahu, Advocate for respondent No.1 and perused the records.

It is well writ large on the records that the plaintiff had earlier failed to complete his evidence as a consequence of which vide order dated 30.07.2019 the Court has closed the evidence of the plaintiff by order and the matter was posted for evidence of the defendant.

It was at that juncture a civil revision was filed by the plaintiff bearing No. 5277 of 2019 and as has been argued the plea taken therein was that due to miscommunication between the counsel and the party the evidence could not be completed and hence the prayer in that revision (in short '**the first one**'). Thereafter, the present revision has come about.

It is worthwhile to refer here that it was the revisionist's application by virtue of which this Court had allowed withdrawal of the first revision petition vide order dated 06.08.2021 and subsequently an application for leading

additional evidence has been moved by the same very party and which stood allowed and which order is under challenge in this petition.

The undisputed factual scenario reflects that by moving an application for leading additional evidence, the party is trying to bye-pass the initial orders of the Court closing the evidence of the plaintiff by order. Such a recourse is certainly not legally permissible and to similar view of this Court in **Bhim Raj Vs. Jai Bhagwan, 2000(3) R.C.R. (Civil) 16** and where it has been held that in such a situation where the first order was not challenged, a party cannot be allowed to lead evidence by moving application for additional evidence. More so, to the similar effect is the ratio laid down **Puran Mal Vs. Sawai Singh 2019(2) PLR 51** and **Smt. Daljit Kaur Vs. Amarjit Kaur and another 2015(2) PLR 121** as has been cited at the bar on behalf of the petitioner side by Mr. Rakesh Gupta.

Mr. S.S. Sahu, learned counsel for the respondent could not convince this Court how in such a situation a revision

lies. More so, in the light of the fact that in both these instances there are self contradictory pleas of miscommunication between the counsel and the party and thereafter a plea of accident has been taken, thus, undermining the very truthfulness of the stand of the plaintiff/applicant.

In the light of the foregoing discussion the learned Court below has fallen into an error by allowing the application for leading additional evidence totally in oblivion to its own earlier orders closing the evidence of the petitioner by order. The instant revision stands allowed. The impugned order as such is set aside.

February 22, 2022
amit rana

(FATEH DEEP SINGH)
JUDGE

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