

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

CR-2664-2017 (O&M)

Date of decision: 23.02.2023

M/s Partap Singh & Co., and another

...Petitioners

Versus

M/s Indian Oil Corp. Ltd., Panipat

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Rajesh Bansal, Advocate for the petitioners.

Mr. Prince Pasricha, Advocate for the respondent.

H.S. MADAAN, J. (Oral)

In a civil suit titled as M/s Indian Oil Corporation Ltd. Vs. M/s Partap Singh and Company & Anr., pending in the Court of Civil Judge (Jr. Divn.) Panipat, during the course of proceedings, the plaintiff had filed an application under Section 151 CPC seeking permission to record further examination-in-chief of PW1 Kailash Chand so as to get proved three documents, which according to the plaintiff had been inadvertently left to be placed on record at the time of tendering of other document in evidence by that witness. Whereas, the defendant had also filed an application U/o 16 Rule 1 CPC for issuance of a direction to the plaintiff to furnish list of witnesses whom it proposes either to give evidence or to produce documents.

Both the applications were contested by the respective

opposite party. Those were disposed of by the trial Court, vide impugned order dated 30.03.2017. For ready reference, the operative part of the order is being reproduced as under:-

“Taking up to first application filed by the plaintiff under Section 151, CPC seeking permission to further cross examine in chief of PW-1 Kailash Chand, it is stated in the application that inadvertently three documents i.e. summary of cost to cost comparison, minutes of meeting dated 06.06.2012 and minutes of meeting dated 18.05.2012 could not be placed on record at the time of tendering the other documents in the evidence by the witness.

“The application is opposed by the defendants stating that the plaintiff cannot lead additional evidence in the garb of seeking permission to tender the documents which do not even find mention in the plaint and the affidavit of evidence. Ld. Counsel for the defendants argued that the said documents were also not placed on record at the time of filing of the suit, thus, the application is liable to be dismissed.

It is no doubt correct that the plaintiff is required to file the original documents at the time of filing of the suit or seek exemption from filing the original documents and bring the same on record at later stage. Nevertheless, as held in Aman Goyal v. Chunni Lal & Ors. 2012 (2) HLR 383 (PH), the Hon'ble High Court has held that filing of supplementary affidavit before the commencement of cross-examination or placing on record the documents which the plaintiff missed to tender or omitted to mention at the time of tendering is first affidavit is permissible.

So far as the argument of Ld. Counsel for the defendants that the documents should have been mentioned in the plaint or produced before the Court at the time of presentation of the plaint is concerned, the provision is directory in nature and the documents can be received in evidence at later stage with the leave of the Court. Therefore, to say that there is absolute bar to

produce any document which was not placed on record at the time of presentation of the plaint is not the correct interpretation of Order 7, Rule 14 (3) CPC. As such, the application is allowed permitting the plaintiff to place on record the documents mentioned in the application.

Now taking up the another application filed by the defendants for direction to the plaintiff to file the list of witnesses proposed to be examined, the provision enshrined under Order 16 Rule 1, CPC provides that it is the obligatory upon both sides to file the list of witnesses not later than 15 days after the date on which the issues are settled. Noteworthy, no list of witnesses was filed either by the plaintiff or by the defendants in terms of the provision contained under Order 16 Rule 1, CPC. Accordingly, it is directed that not only the plaintiff but also the defendants shall file the list of witnesses proposed to be examined by them on the next date of hearing. Cross examination of PW Kailash Chand shall be conducted after the list of witnesses is furnished by both sides. However, the plaintiff is permitted to supply to the defendants the advance the copy of affidavit of evidence of the witnesses proposed to be examined. The application of the defendants is accordingly disposed of.

List on 15.04.2017.”

Feeling aggrieved by the said order, the defendants have approached this Court by way of filing the revision petition, challenging the order passed on an application moved by the plaintiff. Notice of the revision petition was given to the respondent/plaintiff and such respondent has put in appearance through counsel.

I have heard learned counsel for the appellant/plaintiffs besides going through the record and I find that the trial Court was fully justified in allowing the application moved on behalf of the plaintiff

under Section 151 CPC. Proper reasons have been given for accepting the application and a judgment by this Court in support of the conclusions has also been referred.

The order is quite detailed and does not suffer from any illegality or infirmity which might have called for interference by this Court by exercising revisional jurisdiction. The revision petition is found to be without merit and is dismissed accordingly.

The interim order dated 19.04.2017 staying the operation of the impugned order thus comes to an end.

23.02.2023
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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No