

CR-3302 of 2022

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

CR-3302 of 2022

Reserved on: 02.08.2023

Pronounced on: 21.08.2023

Lilu Ram

.....Petitioner

Versus

M/s Anil Kumar Ashish Kumar

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Argued by: Mr. Ajay Kumar Kamboj, Advocate,
for the petitioner.

Mr. Sushil Kumar Verma, Advocate,
for the respondent.

NAMIT KUMAR, J.

1. Instant revision petition has been preferred by the defendant-petitioner under Article 227 of the Constitution of India impugning the order dated 01.08.2022 passed by the Court of learned Civil Judge (Junior Division), Sirsa, whereby application filed by him under Section 151 CPC for permission to produce further evidence has been dismissed.

2. Brief facts, leading to the filing of the present revision petitioner are to the effect that plaintiff-respondent filed a suit for recovery of Rs.13,93,500/- due towards the defendant-petitioner as principal as well as upto date interest along with future interest @ 2% per month from the date of borrowings till realization of the amount in

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favour of the respondent on the basis of running open and current account of the petitioner with the respondent. On 08.03.2021 defendant-petitioner filed an application under Section 151 CPC for permission to produce further evidence to prove the plaintiff-respondent as a money lender without mandatory money lending license under the Punjab Money Lender's Act, 1938 (hereinafter referred to as 'the Act'). Plaintiff-respondent filed reply to the said application. Learned Civil Judge (Junior Division), Sirsa, vide impugned order dated 01.08.2022 dismissed the application of the petitioner. Hence, this revision petition.

3. Learned counsel for the petitioner contended that the trial Court failed to appreciate that evidence sought to be produced is essential and necessary for just and proper decision of the case. He further submitted that petitioner wants to prove that respondent is a money lender by producing the certified copies of the plaints and complaints filed by the plaintiff-respondent, which were previously not in the knowledge of the defendant-petitioner. He further submitted that the observations made by the trial Court in the impugned order are based on surmises and conjectures. The impugned order suffers from illegality and perverse, therefore, the same is liable to be set aside.

4. Per contra, learned counsel for the respondent opposed the submissions made by learned counsel for the petitioner and submitted that the impugned order is perfectly legal and valid. He further submitted that baseless application was moved by the petitioner only to

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delay the proceedings, which has rightly been dismissed by the trial Court.

5. I have heard learned counsel for the parties and perused the record.

6. Perusal of the record shows that the petitioner filed application for permission to lead further evidence to prove that plaintiff-respondent was a money lender, who was running his business without the mandatory provision of the Act. The said application was filed at the final stage of the case when the same was at the stage of arguments. Defendant-petitioner failed to disclose any reason for not producing the said documents during the course of evidence. Evidence of defendant-petitioner was closed on 20.07.2019 and the application for permission to lead further evidence was filed on 08.03.2021 when the case was at final stage, which shows that course adopted by the petitioner is nothing but delaying tactics to delay the proceedings of the case. Additional evidence cannot be allowed when both the parties have closed their evidence as it would amount to *de novo* trial. It is settled law that additional evidence can only be allowed where the evidence sought to be led was not in the knowledge of the party or with due diligence he could not lay hands on that piece of evidence so sought to be adduced. However, petitioner failed to prove that he was not in the knowledge of the documents sought to be placed on record by way of present application.

7. In view of the above, I do not find any illegality or perversity in the impugned order, which is perfectly valid and does not

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call for any interference by this Court. Hence, the revision petition is dismissed.

21.08.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether Reportable

:

Yes/No