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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Decided on : 31.08.2023

Tarsem Singh

. . . Petitioner(s)

Versus

Punjab State Power Corporation Ltd. and Ors.

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Karan Singh, Advocate and
Ms. Shuchi Sodhi, Advocate, for the petitioner(s).

SANJAY VASHISTH, J. (Oral)

1. Present Revision Petition has been filed by the plaintiff (petitioner herein), challenging the order dated 01.04.2023 (P-1), whereby, application for seeking leave to lead secondary evidence under Section 65 of the Indian Evidence Act, 1872 (in short, 'the Act'), has been dismissed by the learned Trial Court.

2. On the very outset, counsel for the petitioner (plaintiff) submits that fairly speaking, the impugned order appears to be genuine, because admittedly, in the application moved by the petitioner for leading secondary evidence, nothing was averred regarding the original document, whether same is/are lost or damaged or is/are in possession of the above-said party. Therefore, counsel for the petitioner submits that petitioner be granted another opportunity to move a fresh application by considering the earlier one having been withdrawn.

While submitting so, counsel refers to the statement dated 16.09.2022, of PW4 – Jitender Kumar, Circle Assistant, O/o Chief Engineer Operation (South), PSPCL, Patiala, which is appended with the present petition as Annexure P-3, wherein, it has been admitted by the said witness that record

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was earlier available, but same has been destroyed. The relevant extracted part of the statement, wherein, said fact has been admitted, is reproduced as under:-

“..... The said record was earlier available with our office but same has been destroyed as per the Order bearing No.3266/69 dated 29.08.2018 passed by the O/o Joint Secretary General, PSPCL, Patiala and the copy of said order has been brought by me today in the Court and same is Ex.PW-4/A.”

3. Considering the totality of circumstances, and the request made by counsel for the petitioner (plaintiff), I deem it appropriate to grant another opportunity to the petitioner (plaintiff) to move a fresh application with complete and correct facts as required to meet the purpose of Section 65 of the Act. Therefore, the earlier application appended with the present petition as Annexure P-4, be considered as having been withdrawn by the petitioner (plaintiff).

Accordingly, the impugned order dated 01.04.2023 (P-1) is set-aside/modified to the extent of making the observation in regard to the not granting of the opportunity for leading the secondary evidence, to the petitioner (plaintiff). In case, petitioner (plaintiff) moves another application within two weeks from today with complete and correct facts, same would be decided in accordance with law within next three weeks by the learned Trial Court.

With the aforementioned observations and terms mentioned therein, present revision petition stands disposed of.

(SANJAY VASHISTH)
JUDGE

August 31, 2023

J.Ram

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