

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.133

Case No. : C. R. No. 5196 of 2023

Date of Decision : September 06, 2023

Ram Kumar Bishnoi (since deceased) Petitioner
through his legal heir Sushil Kumar
vs.

State of Haryana and others Respondents

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

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Present : Ms. Aakriti Mittal, Advocate
for the petitioner.

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GURBIR SINGH, J. :

1. Challenge in this petition is to order dated 21.08.2023 (Annexure P-1), passed by the learned Civil Judge (Junior Division), Hisar, whereby application filed by the respondents for additional evidence has been allowed.

2. The brief facts, as culled out from the paper book are that the plaintiff-petitioner filed a suit for declaration and mandatory injunction. The defendants-respondents contested the suit and filed written statement. After framing of issues, the plaintiff-petitioner has already led his evidence. The plaintiff-petitioner has died during pendency of the case and his legal representative(s) have been brought on record. After the plaintiff-petitioner concluded his evidence, the defendants-respondents were directed to start their evidence.

3. Learned counsel for the petitioner has argued that defendants-

respondents were granted 30 dates to complete their evidence but they failed to tender the evidence. The documents, sought to be produced now, were already in their knowledge as the same were in their possession. The application in question has been moved to fill up the lacuna and to delay the proceedings.

4. Learned counsel for the petitioner has further contended that the learned Trial Court failed to discuss as to how the documents sought to be produced are material for proper adjudication of the case. These are official documents. The instant suit has been filed with regard to restoration of the pension of the plaintiff and other retiral benefits etc. All the documents are part of the official record.

5. Heard.

6. No doubt, there is some inaction on the part of the defendants-respondents in producing the evidence. More than sufficient opportunities have been granted to the defendants-respondents. The case was fixed for evidence of defendants no.4 and 6, when they were proceeded ex-parte. On the application, ex-parte proceedings were set aside. Learned Trial Court has rightly held that evidence of defendants no.4 and 6 was not closed yet. So, the respondents are within their right to produce their evidence.

7. Learned counsel for the petitioner has failed to show that the documents sought to be produced by way of additional evidence are not necessary. Moreover, the said documents have already been tendered in evidence by defendants, which means additional evidence is already produced. The clock was reversed and they were put at the position, where they were proceeded against ex-parte, when the case was fixed for their

evidence.

8. Keeping in view that the evidence of defendants no.4 and 6 is not yet closed, I find that the present petition is without any merit and the same is accordingly dismissed.

9. At this stage, learned counsel for the petitioner has submitted that the petitioner could not raise objection as to admissibility of the documents. So, the objection qua admissibility of documents, tendered by way of additional evidence vide the impugned order, is kept open, to be decided by the learned Trial Court at the time of hearing final arguments.

10. The petition stands dismissed in the above-said terms.

11. Pending applications, if any, shall stand disposed of along with this judgment.

September 06, 2023
monika

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.