



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

137

**CR-2769-2024 (O&M)
Date of Decision : 06.05.2024**

VIJAY KUMAR & ANR. Petitioners

VERSUS

SAT PARKASH & ORS. Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Chanderhas Yadav, Advocate for the petitioners.

ALKA SARIN, J. (ORAL)

1. Present petition has been filed under Article 227 of the Constitution of India challenging the order dated 08.04.2024 (Annexure P-10) whereby the application filed by the plaintiff-petitioners for leading additional evidence was dismissed.
2. Learned counsel for the plaintiff-petitioners would contend that the plaintiff-petitioners want to lead additional evidence by producing Manjit Singh who is one of the attesting witnesses. It is further the contention of the learned counsel that there are two witnesses to the agreement to sell i.e. Tilak Raj and Manjit Singh. Tilak Raj was won over by the defendant-respondents and he appeared as a witness of the defendant-respondents denying the execution of the agreement to sell. Hence, it is now imperative to produce Manjit Singh to prove the agreement to sell. Learned counsel would further contend that in the year 2018 diet money and process fee was deposited for summoning the said witness, Manjit Singh.

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3. Heard.

4. In the present case the evidence of the plaintiff-petitioners was closed vide order dated 15.03.2022 after having been afforded 15 effective opportunities. Subsequently, at the time of the rebuttal arguments, an application (Annexure P-8) was filed by the plaintiff-petitioners for leading additional evidence. A perusal of the said application reveals that it is totally bereft of any details as to why the additional evidence is sought to be lead. Rather, it does not even state as to the nature of the evidence which the plaintiff-petitioners seek to lead though along with the application a list of witnesses has been produced. It simply states that additional evidence in the present case is required to prove his case. The application itself does not state as to why the said witness could not be examined earlier. The suit is for specific performance of agreement to sell dated 20.05.2016 (Annexure P-1). It was incumbent on the plaintiff-petitioners to prove the said agreement to sell by way of cogent evidence. It is not the case of the plaintiff-petitioners that they were not aware of the whereabouts of the said witness and that it was only at a later stage that the whereabouts came to their knowledge. Infact, no reason is forthcoming either from the application or otherwise as to why the said witness could not be examined at an earlier stage. The argument of the learned counsel that the diet money and process fee was deposited in the year 2018 would be of no avail as the evidence of the



plaintiff-petitioners, after having been afforded numerous effective opportunities, was closed on 15.03.2022. The said order was never challenged by the plaintiff-petitioners. Hence, no fault can be found with the order passed by the Trial Court.

5. The present petition, which is wholly devoid of any merit, is accordingly dismissed. Any observation made herein shall not be treated as an expression of opinion on the merits of the case. Pending applications, if any, also stand disposed off.

06.05.2024	(ALKA SARIN)
<i>Aman Jain</i>	JUDGE
<i>NOTE:</i>	<i>Whether speaking/non-speaking: Speaking</i>
	<i>Whether reportable: YES/NO</i>