

CR-4116-2023 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

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Date of Decision: 09.01.2024.

Gurdeep Kumar

...Petitioner.

Versus

Rajni Bala and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. Karan Choudhary, Advocate
for the petitioner.

Sukhvinder Kaur, J.

By way of present revision petition, the petitioner has challenged the order dated 21.07.2022, vide which the plaintiff had closed the oral evidence and order dated 21.03.2023 vide which the application filed by the plaintiff to lead additional evidence was dismissed.

2. Plaintiff has filed the suit for declaration to the effect that the plaintiff is entitled to receive entire service benefits i.e. Gratuity, Ex-gratia Grant, Leave Encashment, General Insurance Scheme, Provident Fund, Family Pension and all other benefits etc. due to the death of Asha Rani wife of Gurdeep Kumar, who expired on 25.09.2013 and defendants No.2 and 3 are bound to pay the same to the plaintiff with consequential relief of permanent injunction restraining defendants No.2 and 3 from making or releasing the payment to defendant No.1 in any manner whatsoever.

3. During the proceedings of the said suit, counsel for the plaintiff closed the oral evidence on behalf of the plaintiff on 21.07.2022.

4. It has been contended by counsel for the plaintiff that earlier the petitioner could not examine any witness due to Covid-19 Pandemic and when the Courts resumed working then plaintiff examined PW1-Balbir Singh, thereafter counsel for the petitioner inadvertently closed his oral evidence, vide order dated 21.07.2022, without going through the main contents of the plaint. As the material witnesses which were necessary for the proper adjudication of the case had not been examined, so an application seeking permission to adduce additional evidence was filed. He has contended that it is very much necessary that plaintiff be allowed the opportunity to examine the witnesses as mentioned in the application for adducing the additional evidence, otherwise irreparable loss would be caused to him. He has also submitted that no prejudice is likely to be caused to the defendants if plaintiff is allowed to adduce the additional evidence.

5. I have heard learned counsel for the petitioner and have gone through the relevant record.

6. The perusal of the order dated 21.07.2022 reveals that the evidence of the plaintiff was closed by counsel for the plaintiff himself. This plea of the petitioner is not convincing that the counsel had closed the evidence of the plaintiff without going through the pleadings.

7. The perusal of the impugned order dated 21.03.2023 shows that it is a well reasoned and detailed order vide which the application of the plaintiff seeking permission to adduce additional evidence was dismissed.

8. It has been specifically mentioned in the impugned order that issues were framed on 16.01.2020 and thereafter, plaintiff has availed 10 effective opportunities for adducing his evidence. On 18.10.2021, while giving further opportunity, cost of Rs.200/- was imposed, but when again on 14.12.2021 no evidence was led by the plaintiff, then cost of Rs.500/- was imposed. Thereafter, the counsel for the plaintiff himself closed his oral evidence on 21.07.2022 and then the case was fixed for documentary evidence of the plaintiff on 04.08.2022. However, again no documentary evidence was produced by the plaintiff and one more opportunity was granted to him, subject to cost of Rs.500/-. Thereafter, the application was filed by the plaintiff to examine two witnesses in additional evidence. But no cogent reason has been assigned by the plaintiff that why these witnesses were not earlier examined while adducing the evidence by the plaintiff. This is also not the case of the plaintiff that the evidence which he wants to produce by way of additional evidence was previously not in his knowledge and he could not produce the same despite exercising due diligence. Now by way of additional evidence, the plaintiff wants to adduce oral evidence by examining two witnesses, which he could have done earlier, had he exercised due diligence at the time of adducing his evidence. So the trial Court has rightly held that the application for adducing additional evidence was without any merit and the same was rightly dismissed.

9. Thus, there being no illegality or infirmity in the impugned order no interference therewith is called for while exercising the revisional jurisdiction. The present revision petition being bereft of any merits stands

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dismissed.

10. All pending applications, if any, also stand disposed of accordingly.

(SUKHVINDER KAUR)
JUDGE

09.01.2024.
komal

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