

(1997) 12 P&H CK 0022

High Court Of Punjab And Haryana At Chandigarh**Case No:** Civil Revision No. 3220 of 1997

Rajesh Bedi

APPELLANT

Vs

Sh. Dhar Bedi

RESPONDENT

Date of Decision: Dec. 11, 1997**Acts Referred:**

- Civil Procedure Code, 1908 (CPC) - Order 18 Rule 17A, 115

Citation: (1998) 2 CivCC 238 : (1999) 2 CivCC 38 : (1998) 119 PLR 33**Hon'ble Judges:** Sat Pal, J**Bench:** Single Bench**Advocate:** Jasbir Singh, for the Appellant; Puneet Jindal, for the Respondent**Final Decision:** Allowed

Judgement

Sat Pal, J.

This petition is directed against the order, dated 23rd July, 1997, passed by the Civil Judge, Junior Division, Phagwara. By this order, the learned Civil Judge has rejected an application filed on behalf of the petitioner/plaintiff under Order 18, Rule 17A, CPC seeking permission of the Court for examining additional evidence. The additional evidence is in the shape of documentary evidence i.e. certified copies of the Jamabandi for the year 1959-60 and 1988-89 as well as the birth certificate of the plaintiff. Notice of this petition was issued to the respondent.

2. Mr. Jasbir Singh, learned counsel appearing on behalf of the petitioner, submits that in the present case, on the date the impugned order was passed the defendants's evidence was yet to commence. He however, submits that by way of additional evidence the plaintiff wants to bring on record the birth certificate and certified copies of the Jamabandi. He therefore, contends that in the interest of justice, the learned trial court ought to have allowed this application. In support of his submission, the learned counsel placed reliance on a judgment of this court in [Ganpati Udyog and Another Vs. Punjab National Bank and Others](#),

3. Mr. Jindal, learned counsel for the respondent. On the other hand, submits that the petitioner/plaintiff earlier also had filed an application under Order 18, Rule 17A, CPC for examining additional evidence on 3rd February, 1997 which was allowed and the petitioner-plaintiff has already brought on record copies of the statements with regard to another suit. He, therefore, contends that the petitioner cannot be permitted to bring on record some further additional evidence second time. In support of his submissions, the learned counsel placed reliance on two judgments of this court in Madan Mohan Aggarwal v. Mansa Devi (1985) 88 P.L.R. 206 and Surjan Singh v. Paras Ram (1994) 108 P.L.R. 503. He submits that in the case of Surjan Singh (supra), it was held that a revision petition is not maintainable.

4. After hearing the learned counsel for the parties, and having perused the impugned order, I am of the opinion that the application filed by the plaintiff/petitioner under Order 18, Rule 17-A CPC ought to have been allowed in the interest of justice as the plaintiff only wants to bring on record certified copies of the Jamabandi and the birth certificate. To allow an application under Order 18, Rule 17A, CPC facts and circumstances of every case have to be examined and in case it is found that the ends of justice will be served, the application can be allowed even at the stage when the evidence of the parties has been closed. In the present case, it is not disputed that on the day when the impugned order was passed, evidence of the defendant had not even been concluded. In the case of Ganpati Udyog (supra) it was held by this Court that even the appellate court can allow additional evidence to be produced in a case where the lower court has refused to admit any evidence which it ought to have admitted in the facts and circumstances of the case.

5. As regards the case of Madan Mohan (supra) I find that in that case the application under Order 18, Rule 17A, was filed when the arguments in the case have already been concluded. In view of these facts, that case is distinguishable from the present case. The learned counsel for the respondent has also submitted that the present case does not fall within the four corners of Order 18, Rule 17A. I, however, do not find any merit in this submission. As stated herein above, it depends upon the facts and circumstances of every case as to whether such an application can be allowed for the proper adjudication of the case. As regards the maintainability of the revision petition, reference may be made to the judgment in the case of M/s Ganpati Udyog Village (supra) wherein after referring to a law laid down by the Supreme Court and this court, the revision petition for allowing additional evidence was held to be maintainable.

6. For the reasons stated herein above, the petition is allowed and the impugned order dated 23rd July, 1997, is set aside subject to payment of costs of Rs. 1,000/-. Since the impugned order has been set aside, the application filed by the plaintiff under Order 18, Rule 17A, CPC stands allowed.