

(2010) 09 P&H CK 0304

High Court Of Punjab And Haryana At Chandigarh

Case No: None

Nigam Kumar Walia

APPELLANT

Vs

Gulzar Singh and Others

RESPONDENT

Date of Decision: Sept. 6, 2010

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Section 151
- Constitution of India, 1950 - Article 227

Hon'ble Judges: L.N. Mittal, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

L.N. Mittal, J.

C.M. No. 22454-C-II of 2010:

1. Allowed as prayed for.

Main Case:

2. Nigam Kumar Walia - one of the legal representatives of plaintiff No. 2 (since deceased) has filed the instant revision petition under Article 227 of the Constitution of India assailing order dated 14.08.2010 (Annexure P-3) passed by learned Additional Civil Judge (Senior Division), Ambala, thereby dismissing application Annexure P-1 moved by the plaintiffs u/s 151 of the CPC for placing on record documents mentioned in the application and for exhibiting the same.

3. I have heard learned Counsel for the petitioner and perused the case file.

4. Learned Counsel for the petitioner vehemently contended that it is necessary to produce the aforesaid documents by way of additional evidence and no prejudice would be caused to the defendants.

5. I have carefully considered the contention, but find no merit therein.

6. Perusal of the impugned order reveals that the suit was filed on 23.03.1994. Plaintiffs' evidence was closed by order of the trial court since the plaintiffs failed to conclude their evidence in spite of several opportunities. In revision petition filed against the said order, this Court allowed another opportunity to the plaintiffs to produce their evidence. Thereafter, the plaintiffs produced some evidence, but still did not conclude the same and consequently, plaintiffs' evidence was again closed by order of the trial court since only one opportunity had to be granted to the plaintiffs as per order of this Court passed in earlier revision petition. Thereafter, defendants led their evidence. When the case was fixed for rebuttal evidence of the plaintiffs, at that stage, application Annexure P-1 was moved by the plaintiffs for placing on record and exhibiting the documents mentioned in the application. It is thus apparent that plaintiffs have been given sufficient opportunities for their evidence. They were even granted indulgence by this Court by granting another opportunity for their evidence. Consequently, there is no ground for allowing the plaintiffs another opportunity to lead their evidence by way of additional evidence at the stage of rebuttal evidence and final arguments in the suit. Moreover, some of the documents sought to be produced are not per se admissible in evidence and it is not even mentioned in the application that any witness is to be examined to prove the documents in question. For this reason as well, the application could not have been allowed. Even otherwise, there is no ground for allowing the application. It has not been alleged as to why these documents were not produced in affirmative evidence at appropriate stage.

7. For the reasons aforesaid, I find no illegality in the impugned order of the trial court so as to warrant interference in exercise of power of superintendence under Article 227 of the Constitution of India. The revision petition is completely devoid of merit and is accordingly dismissed in limine.