

2025:PHHC:078678



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

**Reserved on: July 02, 2025  
Pronounced on: July 03, 2025**

**CR No.2880 of 2021 (O&M)**

**M/s Chacha Traders through  
its sole proprietor Kuldip Singh**

**. . . . Petitioner**

**Vs.**

**M/s United Agro Industries through its proprietor  
Balwinder Kumar Bansal and another**

**. . . . RESPONDENTS**

**\* \* \* \***

**CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA**

**Argued By:-** Mr. M.L. Saggar, Sr. Advocate with  
Mr. Arman Saggar, Advocate for the petitioner.

Mr. Aalok Jagga and Mr. Harkirat Singh Jagdev, Advocates  
for the respondents.

**DEEPAK GUPTA, J.**

This is plaintiff's revision against the order dated 11.10.2021 (*Annexure P-13*) passed by learned Addl. Civil Judge (Sr. Divn.), Jagraon, permitting the defendants (*respondents herein*) of a civil suit titled as "***M/s Chacha Traders v. M/s United Agro Industries***" to lead additional evidence.

2. Suit for recovery of ₹20,99,183/- along with interest was filed by the plaintiff, i.e. M/s Chacha Traders through its proprietor Kuldip Singh (*petitioner herein*) pleading that plaintiff-firm was carrying on the business of trading in Maize Rice Bran and other food grain items. Defendant No.1 was having business dealings for the purchase of various items of food grains. As on 01.04.2012, an amount of ₹20,27,377/- was due against the defendant firm on account of dealings effected during the year 2011-12, which was

carried forward to the books of accounts for the year 2012-13. In para No.3 of the plaint, plaintiff has given details of the various vouchers issued during 2012-13, whereby maize was sold to the defendants. Total amount due against the defendants as on 29.06.2012 was ₹61,06,183/-. It was pleaded that defendants-firm then stopped the business dealings. Plaintiff further gave details in para No.5 of the plaint regarding part payments made by defendant from time to time from 28.06.2012 to 15.01.2013. The total amount as paid by the defendants is ₹40,07,000/-. Last payment of ₹2,00,000/- is stated to have been made on 15.01.2013. Plaintiff prayed for recovery of balance amount along with interest, which the defendants had failed to pay despite legal notice.

3.1 As per written statement (copy Annexure P-2), though business transactions were admitted, but it was pleaded that business dealings had come to an end and that accounts of the plaintiff with the defendants was nil as on 15.01.2013. Defendants denied any amount to be outstanding towards it and prayed for dismissal of the suit.

3.2. Herein itself, it may be mentioned that in the said written statement, there is absolutely no mention of any receipt dated 15.01.2013 (subject matter of the present petition), to have been issued by the plaintiff.

4. After framing of the issues, plaintiff closed its evidence on 28.10.2016. After availing numerous opportunities, defendants closed the oral evidence on 03.05.2019, during which Balwinder Kumar Bansal, the proprietor of the defendant was examined as DW1 and in his testimony also, he did not make reference of any receipt dated 15.01.2013. Certain documents were tendered by the defendants on 30.05.2019 and then an application was moved on the same date to recall Kuldeep Singh, the proprietor of plaintiff-firm for his further cross-examination by pleading that certain questions of vital importance could not be put to him. Said application was declined by the trial Court vide its order dated 30.05.2019 (*Annexure P-7*), which was assailed by the defendants of the case, i.e. respondents herein by filing CR No.4818 of 2019, but the same was dismissed

by a co-ordinate Bench of this Court vide order dated 26.09.2019 (*Annexure P-8*).

5. Plaintiff then closed its rebuttal evidence on 31.07.2019 and final arguments on its behalf were addressed on the same date. Arguments on behalf of the defendants were addressed on 06.08.2019 as per *Annexure P-9B* and the case was adjourned to 22.08.2019 for pronouncing the order.

6.1 However, before the order could be pronounced, the defendants-respondents moved an application under Section 151 CPC (*Annexure P-10*) for permitting it to produce copy of a receipt and exhibit the same as additional evidence. It was pleaded that when the counsel for the defendants was preparing the arguments, it came to his knowledge that plaintiff-firm had issued a receipt regarding purchasing of some goods, which was not on judicial file, as it was not produced at the time of evidence. The same could not be produced earlier inadvertently due to overlooking of the counsel and as such, production of the receipt was necessary. Although no description or date of receipt is mentioned in the application (*Annexure P-10*), but it is the receipt dated 15.01.2013 (*vernacular copy Annexure P-11*), which was sought to be produced and accepted in evidence and which is purported to have been issued by the plaintiff-firm.

6.2 Though the plaintiff, i.e. petitioner herein strongly opposed the application by pleading that the alleged receipt dated 15.01.2013 was a forged and fictitious document, but the trial Court by way of the impugned order dated 11.10.2021 (*Annexure P-13*) has allowed the application.

7. Assailing the aforesaid order, it is contended by learned senior counsel for the petitioner-firm that the receipt dated 15.01.2013 proposed to be produced in additional evidence was neither pleaded nor produced in the evidence by the defendants. It was not even referred in the application, which was previously moved by the defendants seeking further cross-examination of the plaintiff, though that application was declined. Learned counsel contends that the application was moved only to delay the proceedings after conclusion of the final arguments and as such, the same

should not have been allowed. Learned counsel has referred to "**Ram Kumar (since deceased) through his LRs v. Ghisa Ram and others**", **Law Finder Doc Id # 2740945**, wherein it was held that when an application for leading additional evidence is moved at belated stage without valid reasons, the same deserves to be rejected as the Court must ensure justice to both the parties and avoid unnecessary delay in the trial process. Further reliance is made to "**Baljeet v. Hosiyara (deceased) and ors**", **Law Finder Doc Id # 2613950**, wherein it was held that filing repetitive applications for leading additional evidence, particularly at the stage of arguments, is not permissible unless a strong and valid case is made out.

8.1 Refuting the aforesaid contentions, it is submitted by learned counsel for the respondents-defendants that in their written statement, defendants had pleaded that accounts of the plaintiff with the defendants was nil as on 15.01.2013 and that it was in consonance with the said pleading that receipt in question was sought to be produced in additional evidence. However, learned counsel has fairly conceded that there is no reference of the said receipt either in the written statement of the defendants-respondents or in the evidence produced by them.

8.2 Learned counsel for the respondents submits further that simply because the case had reached at the fag end, the application for additional evidence cannot be disallowed and that fresh evidence can be permitted to be adduced, when it is relevant to render justice. Learned counsel refers to "**K.K. Velusamy v. N. Palanisamy**", **2011(2) R.C.R. (Civil) 875 (SC)** and "**M/s Harbir Automobiles v. M/s APS International Pvt. Ltd.**", **2024(2) RCR (Rent) 206**.

9. This Court has considered submissions of both the sides and has appraised the record carefully.

10. In **M/s Harbir Automobiles's case (supra)**, this Court considered the issue relating to the production of the additional evidence and explained the principles as laid down by Hon'ble Supreme Court in **K.K. Velusamy's case (supra)**, which was rendered after taking note of the relevant provisions, i.e.

Order 18 Rule 17 CPC; Order 18 Rule 17A CPC before its deletion in 2002 and Section 151 CPC. It was concluded by this Court as under:-

" 12. From the legal position as above, as explained by Hon'ble Supreme Court, following principles can be culled out:

- Though, after deletion of Order 18 Rule 17A, there is no specific provision in the Code to enable the parties to produce any additional evidence but Section 151 of the Code empowers the court to exercise its inherent powers to make such orders as may be necessary for the ends of justice or to prevent the abuse of the process of the court, which includes grant of permission to produce additional evidence.
- This inherent power of the court is not affected by the express power conferred upon the court under Order 18 Rule 17 of the Code to recall any witness to enable the court to put such question to elicit any clarifications.
- For purposes other than securing clarification required by the court, the inherent power under section 151 of the Code, subject to its limitations, can be invoked in appropriate cases to re-open the evidence and/or recall witnesses for further examination.
- The deletion of the Order 18 Rule 17A does not mean that no evidence can be received at all, after a party closes his evidence.
- However, when there is a time gap between the completion of evidence and hearing of the arguments, for whatsoever reason, and if in that interregnum, a party comes across some evidence, which he could not lay his hands earlier, or some evidence in regard to the conduct or action of the other party comes into existence, the court may in exercise of its inherent power under section 151 of the Code, permit the production of such evidence, if it is relevant and necessary in the interest of justice, subject to such terms as the court may deem fit to impose.
- By exercising the discretion under section 151 or Order 18 Rule 17 of the Code, court is required to consider:
  - whether the evidence sought to be produced would either assist in clarifying the evidence led on the issues, or
  - lead to a just and effective adjudication.

- Merely because the matter has already reached at the stage of final arguments, cannot be a reason to conclude that the application would have the effect of delaying the proceedings.
- The power under section 151 or Order 18 Rule 17 of the Code is not intended to be used routinely, merely for the asking. If so used, it will defeat the very purpose of various amendments to the Code to expedite trials.
- Where the application is found to be bona fide and where the additional evidence, oral or documentary, will assist the court to clarify the evidence on the issues and will assist in rendering justice, and the court is satisfied that non-production earlier was for valid and sufficient reasons, the court may exercise its discretion to recall the witnesses or permit the fresh evidence, by awarding appropriate costs to the other party to compensate for the delay.
- But if the application is found to be mischievous, or frivolous, or to cover up negligence or lacunae, it should be rejected with heavy costs.
- If the party had an opportunity to produce such evidence earlier but did not do so or if the evidence already led is clear and unambiguous, or if it comes to the conclusion that the object of the application is merely to protract the proceedings, the court should reject the application.
- If the evidence sought to be produced is an electronic record, the court may also listen to the recording before granting or rejecting the application."

11. It is clear from the aforesaid principles that though after the deletion of Order 18 Rule 17A CPC, there is no specific provision in the Code to enable the parties to produce any additional evidence, but Section 151 CPC empowers the Court to exercise its inherent powers to make such orders as may be necessary to meet the ends of justice or to prevent the abuse of process of the Court, which includes grant of permission to produce additional evidence. The deletion of Order 18 Rule 17 A does not mean that no evidence can be received at all after a party has closed its evidence. However, before exercising the discretion under Section 151 CPC; or under

Order 18 Rule 17 CPC, the Court is required to consider as to whether the evidence sought to be produced will either assist in clarifying the evidence led on the issues, or lead to just and effective adjudication. The said power under Order 18 Rule 17 CPC or Section 151 CPC is not intended to be used routinely, merely for asking, otherwise it would defeat the very purpose of various amendments to the Code brought to expedite the trials. The additional evidence can be permitted only when the application is found to be bonafide and which is likely to assist the Court in rendering justice. However, in case the application is found to be mischievous or frivolous or to cover up negligence or lacunae, it should be rejected with heavy cost.

12. In the present case, it was specifically pleaded by the plaintiff that last payment of ₹ 2,00,000/- was made by the defendants on 15.01.2013 and that an amount of ₹20,99,183/- was still outstanding, which the defendants failed to pay despite legal notice dated 11.11.2013. No doubt in the written statement, defendants pleaded that accounts between the parties had become nil on 15.01.2013, but there is absolutely no reference that plaintiff had issued any receipt on 15.01.2013 after receiving the balance amount or after settling the accounts. Even in their evidence, defendants did not make reference of any such receipt dated 15.01.2013. Most importantly, when the defendants earlier moved an application for recalling of PW2 - Kuldip Singh, the proprietor of the plaintiff-firm for his further cross-examination, even at that time, no reference was made of any such receipt dated 15.01.2013. Order of the trial Court declining the permission to recall PW2 - Kuldip Singh was upheld by this Court.

13. When the matter is analysed in the aforesaid background, it is evident that the application (*Annexure P-10*) filed under Section 151 CPC so as to produce the copy of receipt dated 15.01.2013 and to exhibit the same in the additional evidence, is nothing but an attempt to grossly misuse the process of Court. On the face of it, the application appears to be mischievous or to cover up the gross negligence or lacunae on the part of the defendants, i.e. respondents herein.

14. In the aforesaid facts and circumstances, this Court is of the view that the trial Court committed grave error in allowing the application (Annexure P-10) under Section 151 CPC. The impugned order dated 11.10.2021 (Annexure P-13) cannot be sustained. As such, said impugned order is hereby set aside by allowing the present revision petition.

**July 03, 2025**  
*Sarita*

**(DEEPAK GUPTA)**  
**JUDGE**

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