

**(2013) 05 P&H CK 0075**  
**In the Punjab And Haryana At Chandigarh**

|                          |    |            |
|--------------------------|----|------------|
| Ashok Kumar and Another  | Vs | APPELLANT  |
| Radha Kishan and Another |    | RESPONDENT |

---

**Date of Decision :** 13-05-2013

**Acts Referred:**

Civil Procedure Code, 1908 (CPC) — Order 41 Rule 27

**Citation :** (2013) 171 PLR 598

**Hon'ble Judges :** K. Kannan, J

**Bench :** Single Bench

**Advocate :** Ajay Jain, for the Appellant;

**Final Decision :** Disposed Off

---

## Judgement

K. Kannan, J.—The revision is against the dismissal of an application to allow for evidence to be placed after the amendment was ordered. The amendment in the statement by the tenant was filed at the Appellate Court to bring to notice certain new circumstances that had come about which were in the nature of subsequent events. When the application for amendment was allowed the petitioner also wanted consideration for reception of additional evidence automatically as merely consequential to amendment. The approach, in my view, was erroneous. It makes a difference that the amendment is brought subsequent to the trial at the Appellate Court. If the amendment had been brought in the pleadings before the evidence was admitted at the trial, the evidence tendered will take care of the amended pleadings as well. However, if the amendment to the pleadings is brought only at the Appellate Court, the reception of document in support of the additional evidence cannot be a matter of course. On the admission of the amendment, the petitioner must apply to the Court for permission to let in additional evidence. The additional evidence is required to be filed under Order 41 Rule 27 and only be taken up along with the appeal and the Court, if it finds that the additional evidence will alter the reasoning adopted by the trial Court and the decision of the trial Court would require to be set aside, it could allow the appeal, remand the matter and seek for consideration in the light

of the additional evidence brought before the Court. In such an eventuality, the parties will have liberty to exhibit the additional documents filed by the Court at the trial Court only. Another possibility is that the Court can itself allow for that evidence to be brought in support of the pleadings and give an opportunity to the other side to join issues on the facts brought through the amendment and the additional documents. It shall be possible for the Court to render a judgment on such additional evidence being taken at the Appellate Court. In any event the Court's consideration of the additional evidence cannot be taken otherwise than at the time of arguments in the appeal itself against the order of the Rent Controller which is challenged at the Appellate Court. The rejection of the application is correct but however the petitioner cannot be denied the opportunity to bring an appropriate petition for consideration of the documents which were the foundation for the amendment that has been already allowed by the Appellate Court. If such an application is brought the Court shall consider the same in the light of the observations made above.

2. The civil revision is disposed of with the above directions dispensing with notice to the respondents.