

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR No. 1014 of 2011 (O&M)
Date of Decision : 12.02.2015

Surat Singh and another

...Petitioners

Versus

Data Ram and others

...Respondents

CORAM: HON'BLE MR. JUSTICE R.P. NAGRATH

Present: Mr. Jaivir Yadav, Advocate
for the petitioners.

Mr. Sachin Mittal, Advocate
for respondent no.1.

R.P. Nagrath, J. (Oral)

The instant petition has been filed under Article 227 of the Constitution of India seeking to set aside the order dated 31.01.2011, passed by learned Appellate Court whereby application under Order XLI Rule 27 of the Code of Civil Procedure (CPC) has been dismissed. By way of said application, the petitioner intended to tender following documents on record:-

- (i) Copy of *Mustarka Khasra Abadi* and *Shijra Abadi Bandobasti* 1932 BK situated at village Meghot Binja with translated copy of Hindi.
- (ii) Certified copy of mutation regarding inheritance bearing no. 34 dated 18 *Chet* 1958 *Samwat* of *Dursa* son of Gariba alongwith Hindi version.
- (iii) Attested copy of mutation no. 422 dated 8 *Baisakh Samwat* 1985 BK alongwith Hindi

version.

(iv) Copy of *Shijra Nasab*.

Learned Appellate Court dismissed the application mainly on the ground that there was nothing to suggest that the petitioners were not having knowledge of these documents at the time of leading their evidence or that they could not produce the documents despite exercise of due diligence.

I have heard learned counsel for the parties, carefully perused the impugned order and the paper-book.

Learned counsel for the petitioners, vehemently, contends that the documents at serial no. 1, 2 and 4 are already part of trial Court record but complete translated copy of these documents were not filed the original being in Urdu. The petitioners now want to tender certified copies alongwith true translated copies in Hindi, the "court language". The document at serial no. 3 for which the petitioners have also applied is copy of mutation which is *per se* admissible. No delay is going to be caused with the tender of these documents as documents have already been filed on record of the Appellate Court.

In view of the above discussion, the instant petition is allowed by setting aside the impugned order and the aforesaid documents are allowed to be tendered by way of additional evidence, subject to payment of ₹ 15,000/- as costs which shall be paid to the respondent No. 1-plaintiff by way of demand draft in his name to be handed over on the date fixed before the Appellate

Court. The defendant-petitioners would be granted only one opportunity by the trial Court to tender the additional evidence. Needless to say that the respondent would be able to seek opportunity to lead evidence in the rebuttal to the additional evidence, if need be.

February 12, 2015
jk

(R.P. NAGRATH)
JUDGE