

CR-1900-2015 (O&M)

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

**CR-1900-2015 (O&M).
Decided on: March 18, 2015.**

Suresh Pal and another

..... Petitioner(s)

Versus

Mahi Pal and another

..... Respondent(s)

*** * ***

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

**PRESENT Mr.Sanjeev Kumar Panwar, Advocate,
for the petitioners.**

M.M.S. BEDI, J (ORAL)

Petitioners are plaintiffs in a suit for declaration to the effect that they are owners in possession in equal share in the land mentioned in the heading of the plaint. Their application for permission to lead additional evidence has been dismissed by the Civil Judge (Junior Division), Bilaspur on the ground that the application is not maintainable as the production of additional evidence is not permitted under law to defeat the case of other party. It has been observed in the order that the proposed evidence which is sought to be produced was in the knowledge of the plaintiffs petitioners and they had been negligent in not producing the same at the time of leading affirmative evidence. The trial Court relied upon judgment in **Karam Singh @ Gurmej Kaur, 1994 (2) Latest Judicial Reports, 129.**

I have gone through the impugned order and I am of

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the opinion that the trial Court has not even bothered to see as to the nature of the evidence which is sought to be produced and its relevance to the pleadings and the facts in issue.

Section 5 of the Indian Evidence Act reads as follows:-

“5. Evidence may be given of facts in issue and relevant facts.- Evidence may be given in any suit or proceeding of the existence or non-existence of every fact in issue and of such other facts as are hereinafter declared to be relevant, and of no others.”

Section 74 of the Indian Evidence Act, defines public documents.

Section 76 of the Indian Evidence Act provides for production of certified copies of public documents.

Section 77 of the Indian Evidence Act lays down that such certified copies prepared under Section 76 of the Indian Evidence Act, may be produced in proof of the contents of the public documents or parts of the public documents of which they purport to be copies.

Section 76 and 77 of the Indian Evidence Act, read as follows: -

“76. Certified copies of public documents. Every public officer having the custody of a public document, which any person has a right to inspect, shall give that person on demand a copy of it on

payment of the legal fees therefor, together with a certificate written at the foot of such copy that it is a true copy of such document or part thereof, as the case may be, and such certificate shall be dated and subscribed by such officer with his name and his official title, and shall be sealed, whenever such officer is authorized by law to make use of a seal; and such copies so certified shall be called certified copies.

Explanation.--Any officer who, by the ordinary course of official duty, is authorized to deliver such copies, shall be deemed to have the custody of such documents within the meaning of this section.

77. Proof of documents by production of certified copies - Such certified copies may be produced in proof of the contents of the public documents or parts of the public documents of which they purport to be copies.”

Counsel for the petitioners has submitted that the petitioners wants to place on record the certified copies of the revenue record issued by the competent authority and that only certified copies of the public documents are sought to be produced on record. The documents which are sought to be produced on record are jamabandi for the year 1937-38 of village Tapu Jaidhar along with Hindi translation, jamabandi for the year 1941-42 and certain other mutations and jamabandis list of which has been given.

This petition is disposed of with a direction to the

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trial Court that the trial Court shall scrutinize the documents which are certified copies of the public documents and are relevant and admissible under Section 77 of the Indian Evidence Act. It will be the discretion of the trial court to permit the certified copies of the public documents falling under the definition of Section 77 of the Indian Evidence Act to be tendered by the plaintiff. If the defendants-respondents seek to rebut the same, an opportunity may be given by the trial Court in that regard as well.

The plaintiffs-petitioners will be required to pay a total costs of Rs.10,000/- to the defendants-respondents for late production of the documents. It will be open to the trial Court to consider the admissibility, relevancy, mode of proof and the nature and authenticity of the documents sought to be tendered as per the provisions of Section 77 of the Indian Evidence Act.

Since the petition has been disposed of in limine in order to save the defendants-respondents from unnecessary harassment and expenses and taking into consideration the interest of justice, in context to the statutory law, it will be open to the defendants-respondents to approach this Court in case they are not satisfied with the order.

A copy of the order be communicated to the trial Court forthwith.

March 18, 2015.
rka

(M.M.S. BEDI)
JUDGE