

IN THE HIGH COURT OF PUNJAB AND HARYANA, AT
CHANDIGARH

CR No. 4006 of 2012

Date of Decision: 19.05.2015

Rajender @ Raja

.....Petitioner

Vs.

Tek Chand and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Jagjot Singh, Advocate, for
Mr. Kunal Dawar, Advocate,
for the petitioner.

Mr. Y.D. Kaushik, Advocate,
for respondents No. 1 and 2.

SABINA, J.

Petitioner has filed this petition challenging the order dated 09.05.2012, whereby application moved by the petitioner under Order 41 Rule 27 of the Code of Civil Procedure, 1908 (for short 'CPC'), was dismissed.

I have heard learned counsel for the parties and have gone through the record, available on the file carefully.

Respondents No. 1 and 2 had filed suit for permanent injunction. The trial Court vide judgment/order dated 24.12.2010, decreed the suit filed by the plaintiffs. Aggrieved against the said judgement/decreed, passed by the trial Court, petitioner filed an appeal. Petitioner also moved an application under Order 41 Rule 27,

CPC, for permission to lead additional evidence. By way of additional evidence, petitioner wanted to prove on record copy of mutation No. 3280 sanctioned on 28.09.1999, mutation No. 3624 and application dated 30.09.2005.

Learned appellate Court while dismissing the application has held that the documents now sought to be produced on record by way of additional evidence were already in existence and in the knowledge of the petitioner but had not been produced on record before the trial Court. Petitioner had taken the plea that the documents now sought to be produced on record had got intermingled with other papers in the files of his counsel and due to this reason, they could not be produced on record. The said plea taken by the petitioner appears to be afterthought. Moreover, petitioner cannot be permitted to fill up the lacuna in his case by filing an application under Order 41 Rule 27, CPC. Thus, the learned appellate Court had rightly dismissed the application moved by the petitioner under Order 41 Rule 27, CPC.

Hence, no ground for interference is made out.

Dismissed.

**(SABINA)
JUDGE**

May 19, 2015
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