

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

Civil Revision No.444 of 2014

Date of decision: 28.08.2015

The Muktsar Cooperative Marketing Cum Processing Society Ltd.

.....Petitioner

Versus

Harpal Kaur and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ashok Kumar Khunger, Advocate,
for the petitioner.

Mr. R.S. Rangpuri, Advocate,
for the respondents.

Ritu Bahri, J.

Challenge in this petition is to the order dated 06.01.2014 passed by the Civil Judge (Senior Division), Sri Muktsar Sahib, dismissing an application filed by the petitioner for leading additional evidence qua the sale deed dated 13.08.1960 and copy of Jamabandi for the year 1946-47.

Dispute in the present case is with regard to a property, which was subject matter of a petition for ejectment filed by the Muktsar Cooperative Marketing-Cum-Processing Society-petitioner against Amarjit Kaur etc. (proforma respondent Nos.4 to 9). The said petition was allowed on 09.11.2004 and eviction order was passed against proforma respondent Nos.4 to 9. Appeal against the said order was dismissed by the Appellate Authority on 30.03.2006. Revision against the said order was also dismissed by this Court vide order dated 18.07.2007. Thereafter, in the year 2009, Gurtej Singh, predecessor-in-interest of respondent Nos. 1 to 3, filed a suit for declaration that he was owner of the suit property and the aforesaid

ejectment orders were illegal, null and void.

After the closing of evidence of the defendants, an application was filed for leading additional evidence in the form of sale deed dated 13.08.1960 and copy of Jaabandi for the year 1946-47. This application was dismissed by the trial Court vide impugned order dated 06.01.2014 by observing that the property, which was subject matter of the sale deed dated 13.08.1960 was not identical to the property mentioned in the present suit.

It is not in dispute between the parties that in the sale deed as well as in the suit, reference has been made to Khasra No.321 (91 Sq. yards, 6 Sq. ft.). Khasra number(s) and measurement are matching, but there is a dispute with regard to boundary of the property.

In view of the fact that the boundaries are subject to change, as the sale deed in question was executed in the year 1960, the impugned order dated 06.01.2014 is set aside and the petitioner-defendant is permitted to lead additional evidence in the form of sale deed dated 13.08.1960 & Jamabandi for the year 1946-47. However, the respondents (plaintiffs) shall be at liberty to lead rebuttal evidence with regard to change of boundaries.

Allowed accordingly.

28.08.2015
ajp

(RITU BAHRI)
JUDGE