

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No.5558 of 2015

Date of Decision: 31.08.2015

Tej Pal and another

.....Petitioners

Vs.

Government of Haryana and Others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Ajay Jain, Advocate for the petitioners.

RITU BAHRI, J.

The petitioners have come up in the revision against the order dated 13.08.2015, whereby, the trial Court has allowed the application under Section 151 CPC for leading additional evidence filed by the defendants.

On 03.12.2011, plaintiffs had filed a suit for the declaration and as a co-sharer of the land as given in detail in the plaint as per Jamabandi for the year 1989-90 and the mutations No.6869-6870 dated 01.06.2006 was sanctioned illegally against the facts and law. Plaintiffs and proforma defendants were owner as sharers of the land in dispute which was situated near the land and building of the Government College, Narnaul. The District Administration without acquiring the land took over the possession of the land of the plaintiffs and mutation No.6869-6870 was got entered from Halqa Patwari on 31.05.2006 without initiating any acquisition proceedings. The defendants No.1 to 5 in the written statement admitted that they are in possession of the land since 1954 and stated that plaintiffs had never approached to the district administration as well as authority concerned of Education Department.

The issues were framed by the trial Court on 11.02.2014 and thereafter the case was listed for plaintiffs evidence. After framing of issues on 11.02.2014 evidence of the plaintiffs was closed on 23.09.2014 and thereafter the documentary evidence too was closed on 15.11.2014. Thereafter, the case was listed

for defendants evidence. It was closed vide order dated 21.03.2015 and the case was adjourned to 24.03.2015 for rebuttal evidence and arguments. The case was thereafter adjourned to 26.03.2015, 06.04.2015 and 15.04.2015. At this stage the application 151 CPC was moved by defendant No.5 and on 17.04.2015 and after seeking their reply, the impugned order was passed. Even though the application has been allowed after the evidence of the defendants was closed on 21.03.2015. The main ground for challenge to the impugned order is that application for additional evidence was not maintainable after the evidence was closed.

Learned counsel for the petitioners has referred to the judgment laid down in the case of Satnam Singh Vs. Devinder Kaur 2006(4) RCR (Civil) 639 to contend that the discretion under the inherent power of the Court under Section 151 CPC has to be exercised based on principles of equity and justice and will not be exercised to the prejudice to the other party. A perusal of this judgment shows that while the trial Court had not disclosed any reason as to how the additional evidence sought to be produced was relevant. The trial Court had not considered the arguments raised by the petitioner as to how and why the evidence which was earlier within the knowledge of the plaintiff-respondent, was not produced when the evidence was being led in affirmative.

Order 18 Rule 17-A was omitted in the year 2001. The object of deleting the abovesaid provision was that unnecessary delay in litigation should be avoided. However, at the same time the inherent jurisdiction of the court to permit for leading of additional evidence on sound reasoning was still permissible under Section 151 CPC in the fact of the present case. State Authorities even though the defendants No.1 to 5 did not mention any reason with regard to the compensation paid for the area but keeping in view that the documents with regard to payment of compensation and receipts would have far reaching effect of the suit filed by the plaintiff. As such, discretion under Section 151 of CPC has rightly exercised by the trial Court in

establish the fact whether the plaintiffs after releasing the alleged compensation had the locus standi to prosecute the suit against defendants or not. Moreover, the acquisition proceedings initiated are a matter of record for Government and no prejudice would be caused to the plaintiff if those documents are allowed to be placed on record as additional evidence at the same time it would assist in giving the judicial pronouncement in the trial Court.

There is no merit in the revision petition and the same is dismissed.

(RITU BAHRI)
JUDGE

31.08.2015
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