

CR-5610-2015

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

CR-5610-2015

Date of decision: 31.8.2015

Kam Singh @ Kamaljit Singh

...Petitioner

Versus

Balwinder Singh and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.PS Thiara, Advocate for the petitioner

SNEH PRASHAR, J.

The present revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 16.7.2015 (Annexure P-1) passed by learned Civil Judge (Junior Division), Zira vide which, the oral evidence of the plaintiff/petitioner was closed by court order.

The plaintiff-petitioner had filed a suit for declaration to the effect that he is co-parcener in the land measuring 84 kanals 9 marlas i.e. 1/4th share of the land measuring 337 kanals 16 marlas situated in village Kassoana, Tehsil Zira, District Ferozepur and the sale deeds dated 23.4.2004 and 30.1.2006 executed by Surjit Singh are illegal, null and void.

The submissions made by Mr.PS Thiara, Counsel for the

petitioner have been heard.

Learned counsel for the petitioner submitted that Special Power of Attorney the petitioner namely Inderjit Singh was examined in evidence of the petitioner but the revenue record pertaining to the land in question i.e. jamabandies for the years 1926-27, 1930-31, 1934-35, 1938-39, 1958-59, 1972-73, 1997-98, Naksha Hakdar, Registered Kairwai Istamal and Khatoni Paimesh could not be tendered in evidence as the same had got misplaced. Submitting that non- production of the said revenue record will cause irreparable loss to the petitioner, learned counsel prayed that just one more opportunity be granted to him to produce the said documents.

The documents required to be tendered in evidence by the petitioner are part of public record, which cannot be fabricated at this stage In **Salem Advocate Bar Association, Tamil Nadu vs. Union of India AIR 2005 Supreme Court 3353**, Hon'ble Supreme Court held that notwithstanding the deletion of Order XVIII Rule 17A of the Code of Civil Procedure, the Court has inherent powers to permit parties to lead evidence on such terms as may appear to be just.

Without going into the merits of the case, it shall be expedient and in the interest of justice that one effective opportunity is given to the petitioner-plaintiff for producing and proving the

aforementioned revenue documents in his evidence. Accordingly, the present revision petition is allowed. The order dated 16.7.2015 is set aside and the learned trial Court is directed to grant one effective opportunity to the petitioner-plaintiff to produce and prove the aforementioned revenue documents at his own risk and responsibility subject to deposit of Rs.2000/- as cost with the District legal Services Authority, Ferozepur.

However, it is made clear that if the petitioner -plaintiff fails to produce and prove the said revenue record on the date so fixed by learned trial Court, no further opportunity shall be granted to him.

26.8.2015
gsv

(SNEH PRASHAR)
JUDGE