

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

CR No.6388 of 2015

Date of decision: 05.10.2015

Raj Singh

...Petitioner

versus

Bant Singh and another

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Gurbhajneek Singh, Advocate,
for the petitioner.

RITU BAHRI, J.

Challenge in this petition is to the order dated 07.09.2015 (Annexure P-3) passed by the Additional Civil Judge (Senior Division), Mansa, whereby application filed by the plaintiff-respondent No.1 (Bant Singh) for producing mutation No.1145 as Ex.P1 by way of additional evidence has been allowed.

The aforesaid mutation was sanctioned pursuant to the order dated 05.02.1973 passed by the Consolidation Officer, Bathinda, vide which, he had attached a *pahi*/passage to the property.

Learned counsel for the petitioner has argued that earlier also an application for secondary evidence was moved on 27.03.2015, which was withdrawn by the plaintiff-respondent No.1 later on. Thereafter, the present application has been moved on 01.05.2015. It has been further stated that in the copy of mutation No.1145 (Ex.P1), reference to the order dated 05.02.1973 passed by the Consolidation Officer has been made. This fact was in the knowledge of the plaintiff earlier and at the stage of argument, an

attempt has been made to fill up the lacuna.

The dispute in the present case pertains to a passage, which is alleged to be of two karams wide. As per the case of the plaintiff-respondent No.1, there existed a passage in musteel and Killa No.13//16/1 (0-9), 14//20/2/1 (0-3), which has now been closed by the defendants. The defendants have taken a plea that no such passage ever existed. Raghvir Singh, Halqa Patwari (DW-1) has deposed that no passage was in existence in musteel and Killa No.13//16/1 (0-9), 14//20/2/1 (0-3). However, in cross-examination, he had admitted that as per copy of mutation No.1145 (Ex.P1), there existed water courses and passages. The application of the plaintiff-respondent No.1 has been allowed in view of the deposition made by Raghvir Singh, Halqa Patwari (DW-1). It was observed that this document would enable the Court to come to a correct decision with regard to the main dispute between the parties.

Keeping in view that the order dated 05.02.1973 was passed by the Consolidation Officer, which has been made basis for sanction of mutation No.1145 (Ex.P1), no ground is made out to interfere in the impugned order dated 07.09.2015 (Annexure P-3). Moreover, the veracity of the aforesaid document would be determined at the final stage of the trial.

Dismissed.

(RITU BAHRI)
JUDGE

05.10.2015
ajp