

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

105

**Civil Revision No.7246 of 2014
Date of Decision:15.12.2015**

Mohinder Singh and anotherpetitioners

Versus

Krishna Devi and othersrespondents

CORAM: HON'BLE MR.JUSTICE ARUN PALLI

- 1. Whether Reporters of local papers may be allowed to see the judgement?**
- 2. To be referred to the Reporters or not?**
- 3. Whether the judgment should be reported in the Digest?**

Present: Mr.Deepak Verma, Advocate
for the petitioners

Mr.Naveen Batra, Advocate
for respondents No.1 and 2

ARUN PALLI, J.(ORAL):-

Vide order being assailed, dated 03.09.2014, rendered by Additional Civil Judge (Senior Divn.), Garhshankar, application moved by the respondents-plaintiffs to adduce additional evidence in rebuttal had since been granted.

Concededly, in a suit filed by the respondents-plaintiffs they prayed for a declaration that mutation No.3508, dated 31.03.1987, sanctioned in favour of the petitioners-defendants despite being Class-II legal heirs of Surinder Singh was wholly unsustainable, for the respondents-plaintiffs being Class-I heirs of the deceased were entitled to succeed to his estate.

In defence, petitioners-defendants No.1 and 3 had denied

that plaintiff- Krishna Devi was indeed the widow of Surinder Singh and plaintiff No.2 i.e.Rajinder Singh was his son. Rather, plaintiff No.1 was married to Tarsem Singh and they had given birth to four children i.e.two daughters namely Balbir Kaur and Kashmir Kaur and two sons namely Narinder Singh and Rajinder Singh. Tarsem Singh had died on 13.01.2001 and till his death plaintiff Krishna Devi continued to be his wife, whereas Surinder Singh died issueless on 17.12.1985 and, thus, his estate was succeeded to by his brothers and sisters. In the nut-shell, vide additional evidence, plaintiffs intend to prove that Krishna Devi is the widow of Surinder Singh and Rajinder Singh is his son.

Ex facie, the evidence that is sought to be led by way of additional evidence could only be adduced by the plaintiffs when they led evidence in the affirmative as the onus of proof was upon them. Concededly, both the parties have already led and concluded their evidence, and, thus, at this stage, plaintiffs could not be permitted to lead any such evidence, least by way of additional evidence. It is not a case either that the proposed evidence was neither in the knowledge of the plaintiffs nor could be led despite exercise of due diligence. In fact, in the written statement preferred by the respondents-defendants No.1 and 3, they had maintained that plaintiffs had no concern with late Surinder Singh and, in fact, plaintiff No.1 happened to be the wife of Tarsem Singh and plaintiff No.2 was his son. Thus, plaintiffs always knew as to what was the evidence that was required to be led at their instance. That being so, the order under challenge cannot be sustained. Accordingly, the revision

petition is accepted and the order dated 03.09.2014 is set aside. As a result, application moved by the plaintiffs for additional evidence is dismissed.

15.12.2015

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(ARUN PALLI)
JUDGE