

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

**CR No.301 of 2016 (O&M)
Decided on: 22.03.2016**

Savitri Devi

....Petitioner

Versus

Satbir Singh and others

....Respondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. D.K. Tuteja, Advocate
and Mr. D.D. Tuteja, Advocate
for the petitioner.

REKHA MITTAL J.

The present petition has been directed against order dated 01.12.2015 (Annexure P-21) passed by the Civil Judge (Junior Division), Jhajjar, dismissing application (Annexure P-19) filed by the petitioner/plaintiff for additional evidence to examine the official witness-Patwari concerned.

Counsel for the petitioner contends that the petitioner has filed a suit for declaration to challenge sale deed No.169 dated 21.05.2001 (Annexure P-14), sale deed No.657 dated 22.08.2003 (Annexure P-15) as well as mutations No.863 (Annexure P-11) and No.1027 (Annexure P-12) on the basis of aforesaid sale deeds executed by respondents No.1 and 2 in favour of respondent No.3 as these adversely affect right of the petitioner *qua* property purchased through sale deed No.3147 dated 16.03.1988 (Annexure P-17) on the basis whereof, mutation No.127 (Annexure P-9) was sanctioned in her

favour. It is further contended that the petitioner availed two opportunities and closed her evidence. She has already produced and proved the documents Ex.P-1 to P-17 and the Halqa Patwari is required to be examined to explain those documents which would otherwise facilitate the trial Court to decide the matter in controversy correctly and effectively. According to counsel, the Halqa Patwari would be a material witness to explain and clarify as to on what basis share of the petitioner has been reduced as per entry in the revenue documents and that of respondents No.1 and 2 has been increased. The learned trial Court dismissed the application primarily on the ground that evidence was within knowledge of the petitioner and the petitioner had already availed sufficient opportunities to lead evidence. The observations by the trial Court in regard to availing sufficient opportunities is contrary to records. The two judgments of this Court relied upon by the learned trial Court “*Chhida Ram and others vs Rishi Raj and another*”, CR No.2791 of 2008 and “*Ram Kumar vs Raj Kumar and others*”, CR No.7295 of 2013 are not relevant in the present context as they deal with right of the plaintiff to lead evidence in rebuttal. The last submission made by counsel is that no prejudice would be caused to the respondents in case the petitioner is allowed to adduce additional evidence as the respondents would get an opportunity to cross-examine the witness as well as to lead evidence to rebut the additional evidence.

I have heard counsel for the petitioner and perused the records.

The application filed by the petitioner for additional

evidence to examine Halqa Patwari was opposed by the respondents with the plea that he cannot be permitted to lead affirmative evidence in form of additional evidence at the stage when the case is already fixed for rebuttal evidence and arguments. Counsel for the petitioner is not in a position to convince as to why the petitioner could not examine the Halqa Patwari at the stage of leading his evidence in affirmative or how the evidence could not be produced despite exercise of due diligence. As the documents in respect whereof the Halqa Patwari is sought to be examined are already exhibited on record, it would be for the trial Court to appreciate whether any change in the revenue entries in regard to reduction of share of the petitioner is legal and justified keeping in view the procedure required to be followed by the revenue authorities before making any change in the revenue records. In the given facts and circumstances, I do not find any error much less illegality in the impugned order as would warrant intervention in exercise of supervisory jurisdiction of this Court.

For the reasons aforestated, finding no merit, the petition is dismissed *in limine*. Nothing stated in this order shall be construed as an expression of opinion on merits of the case.

(REKHA MITTAL)
JUDGE

22.03.2016
yakub