

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

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Civil Revision No.5535 of 2016
Date of Decision: September 08, 2016

ISHWAR AND OTHERS

-PETITIONERS

VERSUS

HOSHIYAR AND OTHERS

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Manish Mehta, Advocate
for the petitioners.

Mr. Varun Gupta, Advocate
for respondents No.1 to 6.

RAJ MOHAN SINGH, J. (ORAL)

Petitioners have assailed order dated 09.08.2016 vide which application for leading additional evidence was dismissed by Civil Judge (Junior Division), Mahendergarh.

The documents sought to be produced by way of additional evidence were the certified copies of mutation No.60 dated 29 Chaitra 1984 B.K. and jamabandi (1984-85) B.K. The additional evidence was sought to be led on the premise that initially land bearing Khasra No.146, 147, 148 and 161 measuring 7 Bigha 13 Biswas was recorded in the name of Jalji daughter of Kundan who was living in Jaipur and ultimately died issueless. Her estate was escheated to State by order of Nizam Narnaul on 12 Kartik 1984 B.K. Consequent, mutation as mentioned above was sanctioned and thereafter, State became owner in possession of the property in question as per jamabandi for the year 1984-85 B.K. The land was

utilized and its income was being spent on persons belonging to Scheduled Caste category. Though in the counter claim set up by the defendants-petitioners, the factum of aforesaid mutation and Jamabandi find mention; but still the petitioner did not lead the aforesaid evidence in affirmative.

Learned counsel for the petitioners submits that additional evidence which is sought to be adduced is in the form of certified copies, authenticity of which cannot be doubted. Even if, something remains obscure, the same can be filled in by way of additional evidence, if the Court thinks that the additional evidence would go in a way for deciding the controversy in a more effective manner. Since, the entire controversy hinges upon mutation which was entered and sanctioned pursuant to the land having been escheated to State by order of the Nizam, therefore, the mutation and the jamabandi may have relevant bearing on ultimate decision of the case (though no such definite opinion can be formed at this juncture).

Learned counsel for respondents No.1 to 6 opposed the claim of the petitioners on the ground that these documents were very much in the knowledge of the petitioners as the same were disclosed in the counter claim set up by the defendants-petitioners along with the written statement.

Be that as it may, the additional evidence which is sought to be adduced is in the form of certified copies of the revenue record, authenticity of which cannot be doubted at this stage, however, the

respondents would be at liberty to counter the genuineness of these documents if need be, at appropriate stage. The petitioners can be allowed to tender the aforesaid revenue documents by way of additional evidence without examining any witness.

Learned counsel for the petitioners further submits that execution of aforesaid documents has not been denied by the respondents, therefore, he does not wish to examine any witness to prove execution of aforesaid documents.

In view of aforesaid, the petitioners are allowed to tender the certified copies of the documents which are sought to be brought on record by means of additional evidence. The revision petition is allowed, however, subject to payment of Rs.20,000/- as costs to be paid to the respondent.

Payment of costs would be a condition precedent for giving aforesaid indulgence by the trial Court.

(RAJ MOHAN SINGH)
JUDGE

September 08, 2016

jyoti Y.

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No