

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

CR No. 5727 of 2016

Date of decision : 07.09.2016

Kishan Singh & ors.

...Petitioners

V/s

Jas Kaur & ors.

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Sandeep Bansal, Advocate for the petitioners.

RAJAN GUPTA J.

Prayer in this revision petition is for setting aside impugned orders dated 04.07.2016 and 27.07.2016 whereby applications filed by the petitioners for granting permission to produce documents in rebuttal and additional evidence has been rejected.

Learned counsel for the petitioners has contended that trial court has erroneously rejected the plea of the petitioners. According to him, petitioners may be allowed to lead either evidence in rebuttal or by way of additional evidence as the same is necessary for proper adjudication of the case. Thus, impugned orders deserve to be set-aside. He has relied upon judgments of this court reported as *Ranjit Singh vs. Mehfil Restaurant 2008(1) RCR (Civil) 768* and *Pawan Kumar vs. Surinder Pal & anr. 2009(3) CCC, 380*.

I have heard learned counsel for the petitioners.

It appears that plaintiffs filed a suit for declaration to the effect that they were owners of suit land measuring 5 kanals 10 marlas as described in the plaint. They also sought injunction to restrain the respondents from interfering in their peaceful possession. Suit was instituted in the year 2006.

Thereafter issues were framed on 25.08.2008. During rebuttal evidence, petitioners wanted to examine one draftsman namely Arjan Khanna, who appeared as PW1 to prove another site plan and sale-deed dated 28.01.2011 executed by respondent no. 1 in favour of petitioner no. 1 alongwith some other evidence. An affidavit of PW1 to this effect was filed and same was taken on record. At this stage, defendant no. 5 moved an application under section 151 CPC for striking off the affidavit of PW1 on the ground that petitioners wanted to fill the lacunas in cross examination. Said application was allowed and affidavit of PW1 produced in rebuttal was struck off the record. It was directed that same would not be treated as a part of evidence. Instead of challenging the order, petitioners moved an application for additional evidence on the ground that the evidence sought to be led in rebuttal is very much essential for just decision of the case, thus same may be taken on record by way of additional evidence. Said application was contested by respondent no. 5. Same was dismissed on the ground that evidence now sought to be produced by petitioners was very much in their knowledge earlier and case was at its fag end. However, Aks Shajra being a document of public nature was allowed to be taken on record. I find no infirmity with the impugned orders. It is inexplicable why petitioners remained quiet during entire proceedings. They never raised such a plea till suit neared its culmination. Judgments cited by the petitioners cannot help the case of the petitioners. Revision petition is without any merit and is hereby dismissed.

September 07, 2016

Ajay

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No