

Civil Revision No.6210 of 2015

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.6210 of 2015

Date of Decision: July 12, 2016

Mangat Rai & another

...Petitioners

Versus

Araya Samaj Mandir Dhuri & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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

Present: Mr.Ishan Gupta, Advocate,
for the petitioners.

Mr.Jasbir Rattan, Advocate,
for respondent No.1.

AMIT RAWAL, J. (Oral)

Petitioner-plaintiffs are aggrieved of the impugned order, whereby their application filed for leading additional evidence to place on record jamabandi for the year 2008-09, has been declined.

Mr.Ishan Gupta, learned counsel for the petitioner-plaintiffs submits that the plaintiffs filed a suit for possession by way of partition of their share and already placed on record jamabandies, Ex.P1 and

Ex.P2 of the year 2003-04, which contained the entries regarding mutation of Chiranji Lal and Lachhmi Devi. Subsequently, the mutation was sanctioned in favour of the plaintiffs and they could not place on record the jamabandies in view of the order of remand passed by the Lower Appellate Court, whereby the trial Court was directed to decide the case afresh by giving one opportunity to both the parties to lead evidence, if any. The petitioners had already brought on record the site plan, but the jamabandies, aforementioned, are also essential and necessary for the adjudication of the lis and in case the same is allowed, the other party would be at liberty to rebut the same.

Mr.Jasbir Rattan, learned counsel for respondent No.1-defendant submits that the jamabandies do not carry the presumption of truth, but the manner and mode sought to be adopted is not permissible in law. The jamabandies have to be proved in accordance with law as the same appear to have been procured at the back of his client and, thus, urges this Court for affirming the findings under challenge.

The shorn of the facts noticed above. I am of the view that once the Lower Appellate Court has already remanded the matter back to the trial Court to decide the controversy afresh by giving opportunity to the parties, the petitioner-plaintiffs cannot be prevented from bringing on record all the material evidence, particularly one mentioned above and

the other party, i.e., defendants would be at liberty to rebut the same in accordance with law and refer the same at the time of arguments regarding its authenticity, genuinity or applicability to the facts and circumstances of the case.

Accordingly, the application for additional evidence is allowed and the petitioner-plaintiffs are granted opportunity to prove the jamabandies, aforementioned, in accordance with law and the other party, i.e., the defendants would be at liberty to rebut the same. The impugned order is set-aside and the trial Court is directed to decide the suit in accordance with law.

Revision petition stands allowed in the aforementioned terms.

July 12, 2016
ramesh

(AMIT RAWAL)
JUDGE