

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

-.-

CR 7853 of 2015 (O&M)
Date of decision: 08.11.2016

Kiranjit Kaur and another *Appellants*

Versus

Bachan Kaur and others *Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. Shiv Kumar, Advocate
for the appellants

Mr. Satbir Rathore, Advocate
for the respondents

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Rekha Mittal, J. (oral)

CM 5979 CII of 2016

Prayer in this application is for impleading the legal representative of Bachan Kaur-respondent No. 1(since deceased).

In view of averments made in the application duly supported by an affidavit of Sampuran Singh, one of the appellants, the application is allowed and persons mentioned in para 2 of the application are brought on record as legal representatives of Bachan Kaur-respondent No. 1 (since deceased).

Amended memo of parties is taken on record.

The alleged legal representatives are already on record as respondents No. 2 to 5. Application stands disposed of accordingly.

Main case

The present petition directs challenge against order dated 26.10.2015 passed by Civil Judge (Junior Division) Dasuya whereby application filed by the petitioners/defendants for permission to adduce additional evidence has been dismissed.

Counsel for the petitioners has submitted that in case the petitioners are not permitted to adduce additional evidence as prayed for, it would lead to a serious consequence when otherwise, the additional evidence is necessary for complete and effective adjudication of the matter in controversy as well as just decision of the case.

Counsel for the respondents, on the contrary, has submitted that the application filed by the petitioners is too vague much less meeting the requirements that evidence sought to be adduced now was either not to the knowledge of the petitioners or could not be produced despite exercise of due diligence. However, counsel has got no objection if the petitioners are permitted to produce on record a copy of *aks sijra* and question of its evidentiary value as well as mode of proof may be left to be decided by the trial Court.

I have heard counsel for the parties and perused the paper book particularly, the application for additional evidence dated 08.09.2015 (Annexure P6) and the order impugned.

A casual reading of para 2 of the application would make it evident that evidence of the defendants/petitioners was closed by order of the Court. It has been averred that inadvertently some material evidence has been left to be recorded and the same is necessary for proper adjudication of the case. In the concluding lines of the para, it is stated that the defendants

want to bring on record *aks sijra* and want to examine witness regarding the matter in dispute. As has been rightly argued by counsel for the respondents that no head and tail can be made out from the application as to who was the material witness left to be examined much less circumstances under which the said material witness could not be produced at an appropriate stage of the proceedings. In this view of the matter, I do not find any merit in contentions of the petitioners that they are entitled to seek indulgence of this Court for adducing additional evidence. However, in view of the statement made by counsel for the respondents, the petitioners are permitted to produce on record a copy of *aks sijra* but question of its admissibility and proof is left open to be decided by the trial Court.

With the observations made hereinabove, the petition stands disposed of.

(Rekha Mittal)
Judge

08.11.2016
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No