

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

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**CR-8435 of 2015
DATE OF DECISION: 17.05.2016.**

Jagpal Singh and others

...Petitioners.

VERSUS

Amarjit Singh and others

....Respondents.

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN

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

Mr. M.J.S. Bedi, Advocate
for respondents No.1 and 2.

Mr. K.S. Sandhu, Advocate
for respondent No.3.

Shekher Dhawan, J. (Oral)

Present petition is challenge to the order dated 18.11.2015 whereby application filed by petitioner/defendant for seeking permission to tender copy of mutation bearing No.11745 regarding inheritance of Tara Singh was declined.

Learned counsel for the petitioner submitted that the said document is most relevant for the just decision of the case and the same could not be placed on record because of inadvertence and the Court below has not considered all these aspects while passing the impugned order and the same be allowed to be produced on file as per statement of counsel for the petitioner.

Learned counsel for the respondent opposing the contention of learned counsel for the petitioner submitted that had there been any exercise of due diligence on the part of the petitioner during the trial, such an application should not have been filed. The document i.e. mutation No.11745 was in existence when due opportunity was given to the petitioner to lead the evidence so there is no ground to set aside the impugned order and the present petition be dismissed.

Having considered the contentions of learned counsel for both the parties, this Court is of the considered view that main facts are not disputed. Both the parties had concluded their respective evidence and the case is now fixed for rebuttal evidence and arguments. The document sought to be produced, vide application, is copy of mutation and authenticity of the said document is not disputed in any manner. It is undisputedly relevant document for just decision of the case and even production of the same on the file shall help the Court to arrive at the factual position to appreciate the remaining evidence available on file in its correct perspective. There is no denial of the fact that such an evidence could be led if it is a case of exercise of due diligence at the relevant time and for that purpose petitioner can certainly be burdened with the payment of costs.

In view of the above, present petition is accepted and order dated 18.11.2015 is hereby set aside, subject to costs of Rs.10,000/- and petitioner shall be given one opportunity to produce copy of mutation No.11745 as per statement of counsel for the petitioner before the Court below.

(SHEKHER DHAWAN)
JUDGE

17.05.2016.

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