

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

Civil Revision No.2870 of 2014  
DECIDED ON: April 05, 2017

BALBIR SINGH AND OTHERS

.....PETITIONERS...

VERSUS

BACHAN SINGH AND OTHERS

....RESPONDENTS...

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Amit Jain, Advocate  
for the petitioners.

Mr. HPS Ghumman, Advocate,  
for respondent No.6.

\*\*\*\*\*

JASPAL SINGH, J.

By virtue of instant civil revision petition preferred under Article 227 of the Constitution of India, the petitioners have sought setting aside/quashing of impugned order dated 07.04.2014 passed by Additional Civil Judge (Senior Division), Nabha whereby an application filed by the petitioners for additional evidence, has been dismissed.

2. While assailing the impugned order dated 07.04.2014, it has been argued by learned counsel for the petitioners that from the inspection of the file, learned counsel for the petitioners-plaintiffs came to know that at the time of adducing the evidence, the plaintiffs could not tender the copy of mutation Nos. 501, 218, 155 and copies of jamabandi for the years 1990-91 and 2002-03. The

said documents are very necessary for the proper adjudication of the matter in controversy. However, the said application has been dismissed by the ld. trial court simply on the ground that earlier the petitioners-plaintiffs were already granted two opportunities in compliance of order dated 11.04.2011 passed by Additional District Judge, Patiala whereby application under Order XLI Rule 27 CPC was allowed. Since, the documents sought to be produced by way of additional evidence are necessary for the proper adjudication of the matter in controversy, therefore, the ld. trial court should have allowed the petitioners to produce the above referred copies of mutations as well as jamabandies. Moreover, the respondents-defendants are not going to suffer any loss. No prejudice is going to be caused to the respondents-defendants, in case, the documents sought to be produced by way of additional evidence, are allowed to be placed on record.

3. While relying upon the pronouncement of Hon'ble Apex Court captioned as ***“North Eastern Railway Administration, Gorakhpur v. Bhagwan Das (D) by Lrs, 2008(3) RCR (Civil) 165***, it has been submitted by learned counsel for the petitioners that such an issue has been considered in detail by Hon'ble Apex Court and certain broad principles were laid down, namely, acceptance of application may not result into injustice to other party and that it is necessary for the purpose of determining the real question in controversy between the parties, which is fully applicable to the facts and circumstances of the case in hand. Since, the impugned order is against the principles of natural justice as well as governing the grant of permission to adduce additional evidence, it is not sustainable in the eyes of law and is liable to be set aside, whereby an application deserves to be allowed.

4. This Court has given a deep thought to the aforesaid submissions made by learned counsel for the petitioners but find the same to be without any legal and factual weight.

5. As far as the legal proposition pointed out by learned counsel for the petitioners as well as the observations made in the above referred authority i.e. *North Eastern Railway Administration, Gorakhpur's case (supra)* is concerned, there is no two opinions about the same but each fact has to be dealt with keeping in mind the peculiar facts and circumstances of the particular case.

6. Undoubtedly, the petitioners-plaintiffs had earlier filed an application under Order XLI Rule 27 CPC for permission to adduce additional evidence along with appeal against the order dated 13.02.2004, the said application was allowed with the direction to afford two opportunities each to the parties to lead their respective evidence. Consequently, appeal was also accepted and remanded to the trial court vide its judgment and order dated 11.04.2011. The respondents-defendants had filed an appeal against order dated 11.04.2011 passed by the lower appellate court before this Court, however, this Court vide order dated 04.02.2014, imposed costs to the tune of ₹10,000/- upon the petitioners-plaintiffs while dismissing the aforesaid appeal against the order dated 11.04.2011, on the ground that defendants-respondents unnecessary dragged into the lengthy litigation. Since, the petitioners-plaintiffs had already availed two opportunities in compliance of order dated 11.04.2011 for adducing additional evidence, another application filed under Section 151 CPC for permission to adduce additional evidence to prove/tender copy of mutation Nos. 501, 218 and 155 as well as copies of jamabandi for the years 1990-91 and 2002-03, is nothing but a noble device adopted by the plaintiffs-petitioners to

delay the disposal of the suit. Otherwise, in view of the facts and circumstances narrated above, the second application is not maintainable and can be termed to be an abuse of the process of Court and law.

7. Thus, this Court does not find any infirmity, illegality or perversity in the impugned order dated 07.04.2014 and the instant petition being devoid of merits is dismissed.

8. No order as to costs.

April 05, 2017  
sonika

(JASPAL SINGH)  
JUDGE

Whether speaking/reasoned: Yes

Whether reportable: Yes/No