

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

CR No.6405 of 2017(O&M)

Date of decision: 25.9.2017

Jai Bhagwan (deceased) through his LRs Manju and othersPetitioners

VERSUS

Gagan Buildtech Pvt. ltd. and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Sudhir Aggarwal, Advocate for the petitioners.

REKHA MITTAL, J.

The petitioner/plaintiff now represented by his LRs has approached this Court to express their grievance against rejection of the application to call for the excerpt from Moharrar Patwari in the office of Sadar Kanungo, Gurugram.

Counsel for the petitioner has submitted that Jai Bhagwan (since deceased) filed a suit for declaration with consequential relief of permanent injunction on the premise that the suit property, detailed in para 2 of the plaint, is joint Hindu family property in the hands of his father namely Birender Singh, therefore, Birender Singh was not competent to alienate the property in favour of Gagan Buildtech Pvt. Ltd.- defendant. It is further argued that the plaintiff filed two applications, one for production of additional evidence to produce copies of Jamabandis and mutations and other for calling excerpt from the office of Sadar Kanungo. The trial Court allowed the application for additional evidence in order to enable the petitioner/plaintiff to prove ancestral / co-parcenary nature of the land but

wrongly denied his claim for calling an excerpt from the office of Sadar Kanungo, Gurugram. It is further argued that a serious prejudice shall be caused to the petitioner in case prayer of the petitioner is not allowed.

I have heard counsel for the petitioner, perused the paper-book particularly the application (Annexure P-2) and the order impugned.

Indisputably, the instant application was filed by the petitioner at the fag end of trial when the case was pending for rebuttal evidence/arguments. Plea of the petitioner is that the plaintiff wants to call for the excerpt from the office of Sadar Kanungo to be prepared by Moharrar Patwari, Gurugram for the last 100 years.

Counsel for the petitioner is not in a position to clarify as to why an application for excerpt could not be filed by the plaintiff or his LRs at the first available opportunity much less before the issues were framed by the Court. As per the settled position in law, a litigant who desires to summon the Special Kanungo or Patwari Moharrar as a witness with his record is required to state succinctly and in writing the point on which information is required and the Court has to ensure that the application is in readily intelligible form before a direction is issued to the concerned authority to prepare an excerpt. The High Court Rules and Orders contain instructions regarding utilisation of services of Special Kanungo or Patwari Moharrar. It has been specifically contained therein that application must be made even before the issues are framed by the Court. In the case at hand, the application has been filed after conclusion of trial when the case was fixed for rebuttal evidence and arguments. The application does not contain any specific information required by the petitioner. It is not the plea of the petitioner that after preparation of excerpt by the concerned

revenue official, he needs to be examined along with original records. The excerpt prepared by a Special Kanungo or Patwari Moharrar is neither a part of record of rights nor per se admissible in evidence. Examined from any angle, I find it difficult to accept contention of the petitioner that the trial Court has committed any patent error much less illegality warranting intervention in exercise of supervisory jurisdiction by this Court.

For the foregoing reasons, the petition fails and is accordingly dismissed in limine.

SEPTEMBER 25, 2017
'D. Gulati'

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no