

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

CR No. 8251 of 2016

Date of decision: 03.10.2017

Mahabir

...Petitioner

Versus

Government of Haryana and others

...Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sanjiv Gupta, Advocate,
for the petitioner.

Mr. D.K. Mittal, DAG, Haryana.

Mr. Vijinder Singh, Advocate,
for respondent No.2.

Ritu Bahri, J.

Challenge in this petition is to the order dated 10.10.2016 (Annexure P-2) passed by the Civil Judge (Junior Division), Charkhi Dadri, whereby application filed by plaintiff-petitioner for leading additional evidence, has been dismissed.

By way of aforesaid application, plaintiffs wanted to place on record (i) Pedigree Table 1928; (ii) Mutation No.49 dated 20.04.2016 in Urdu Script and its Hindi translation; and (iii) Jamabandi for the year 1887 in Urdu Script and its Hindi translation. Apart from this, plaintiffs also wanted to examine Urdu – Hindi Translator to prove Hindi translation of above documents and Record Keeper from the office of Deputy Commissioner, Bhiwani.

Plaintiff-petitioner has filed a suit for declaration that the suit property, which has been shown to be 'Nazool land' and has been wrongly mutated in favour of the Government, is illegal, null and void. The said property has been wrongly shown as escheated and was declared as 'Nazool land'. This property was initially mutated in favour of one Hukami, who was having two sons namely Ram Lal and Ram Sahai. Ram Lal was having one son namely Maam Chand, who had died issueless.

Learned counsel for the petitioner contends that plaintiff-petitioner is from the family of Ram Sahai and he being one of the legal heirs of Ram Lal, the property in dispute could not be escheated and declared as 'Nazool land'.

In the present case, after framing of issues on 24.09.2013, evidence of the plaintiffs was closed on 22.07.2014. Thereafter, evidence of the defendants was closed vide order dated 29.01.2015. Earlier also, plaintiff-petitioner had filed an application for producing the aforesaid pedigree table by way of rebuttal evidence, which was dismissed and even revision against the said order was withdrawn on 10.02.2016. Thereafter, the present application has been filed, which has been dismissed by the trial Court. While dismissing the application, it has been observed that the evidence of plaintiffs was closed vide order dated 22.07.2014. However, the said order was never challenged by them by filing any revision.

Learned counsel for the petitioner states that though the evidence of plaintiffs was closed on 22.07.2014, but they had reserved their right to lead evidence in rebuttal. The documents, now sought to be led, are official documents. Whether plaintiff-petitioner is legal heir of Ram Sahi, this evidence would be necessary to give correct finding on issue Nos. 1 and 2.

Resultantly, the impugned order dated 10.10.2016 (Annexure P-2) is set aside and application filed by plaintiff-petitioner for leading additional evidence is allowed. However, respondent-defendant Nos. 1 and 2 will have a right to lead evidence in defence. The trial Court is expected to conclude the trial within a period of six months from the date of receipt of certified copy of this order.

Allowed accordingly.

03.10.2017
ajp

(RITU BAHRI)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No