

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 5285 of 2017

Date of Decision: 23.05.2019

Bharat Singh

.....Petitioner

Vs.

Girraj

.....Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Randhir Singh Hooda, Advocate,
for the petitioner.

None for the respondent.

AMOL RATTAN SINGH, J. (ORAL)

This petition having been listed today along with CR No. 5328 of 2017, in view of the order passed earlier in that petition on 18.08.2017, it is seen that though in that petition the Gram Panchayat, Village Prithla, Tehsil & District Palwal, is also a party, along with the sole respondent in this petition, the Gram Panchayat has not been impleaded herein.

As regards the sole respondent, (who was the defendant before the trial Court in the suit instituted by the petitioner), even as recorded in the order dated 16.03.2018, service of notice issued to him on 10.08.2017 was shown “to be complete”, with none however having represented him.

Thereafter, with the two petitions having been listed together, Mr. Surinder Dagar is shown to be present for respondent no. 2 in CR No. 5328 of 2017, as recorded in the order dated 23.05.2018, but with none appearing for the sole respondent on that date also, which continues to be the same situation today.

The order impugned in this petition is one by which the application filed by the petitioner seeking to lead additional evidence before the appellate Court has been dismissed.

The dismissal is on the ground that all the documents that the petitioner wished to lead before the appellate Court as additional evidence, were obviously available with him even at the time of the trial of the suit but he not having availed of the opportunity to produce them at that stage, he was simply filling up a lacuna at the stage of an appeal.

It is first seen that the documents sought to be led by way of additional evidence, even as per the impugned order itself, are a '*Naksha Khasra Shikni Pamaish*' for the year 1868, the '*Shizra Nasab*' for the year 1954-55, a copy of Government Gazette of India publication no. 842 and one mutation no. 6295.

Thus, the entire documentary evidence now sought to be led is revenue record maintained by the Government, which could go to the root of the matter, (for the petitioner to establish the status of the suit land, one way or the other, by the production of those documents).

That being so, the sole respondent herein not having contested the petition, he also being the sole defendant in the suit, (though at the stage of appeal the petitioner has sought that the Gram Panchayat be also added as a respondent, which prayer has been allowed by this Court while disposing of CR No. 5328 of 2017 today itself), in my opinion, this petition also deserves to be allowed.

Consequently, the petition is allowed, with the impugned order set aside and the petitioner permitted to lead the aforesaid additional evidence before the appellate Court, with his application invoking jurisdiction of that Court under Rule 27 of Order 41 of the CPC also thereby allowed.

However, it is made absolutely clear that this Court has not made any comment whatsoever on the authenticity of the documents sought to be led by way of evidence, or with regard to the petitioners' claim based on those documents, all of which would naturally be gone into by the appellate Court on the basis of the evidence led before it.

May 23, 2019
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(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes