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

**Civil Revision No.5328 of 2018 (O&M)
Date of Decision: 30.10.2019**

SMT. JASWINDER KAUR

.....Petitioner

Vs

SURINDER KAUR & OTHERS

....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. S.K. Aggarwal, Advocate
for the petitioner.

Mr. G.S. Nagra, Advocate
for respondents No.1 to 3.

RAJ MOHAN SINGH, J. (Oral)

[1]. This revision petition has been preferred by the petitioner against the order dated 26.07.2018 passed by the Civil Judge (Junior Division) Ambala, vide which the application filed by the petitioner under Order 6 Rule 17 CPC for amendment of the written statement was dismissed.

[2]. Learned counsel for the petitioner submitted that plaintiffs are daughters of Gajjan Singh. Relinquishment deed dated 16.09.2005 was executed by Gajjan Singh in favour of his son Baldev Singh. After the death of Baldev Singh, mutation was sanctioned in favour of defendants No.1 to 3. The

relinquishment deed along with mutation has been assailed by the plaintiffs.

[3]. By way of proposed amendment in the written statement, defendants No.1 to 3/LRs of Baldev Singh seek to plead that the land was originally owned by Bhagwan Dass. After the demise of Bhagwan Dass, the land was inherited by Chamela Singh, who executed Will dated 16.12.1965 in favour of Bachan Singh, Dalip Singh, Gajjan Singh and Bant Singh in equal shares. Defendants further pleaded that ancestral nature loses its character once the land was received by Gajjan Singh by way of Will dated 16.12.1965.

[4]. Learned counsel for respondents No.1 to 3 vehemently submitted that in the written statement filed by the defendants/petitioners, they have admitted the factum of ancestral nature of property and on the strength of **Ram Niranjan Kajaria vs. Sheo Prakash Kajaria and others, 2015(4) R.C.R. (Civil) 580**, the admission in the pleadings cannot be withdrawn.

[5]. After hearing learned counsel for parties, I am of the view that even if there is an admission in the pleadings, the factum of land being ancestral has to be proved by the plaintiffs by way of producing Excerpt (*Intekhab*)/pedigree table, as per requirement of Volume 1, Chapter 9, Rules 5 & 6 of High Court

Rules and Orders, and as per para No.232 of Mullah's Law.

[6]. In view of aforesaid legal position, even if admission is made by the defendants in the written statement, the nature of property to be ancestral has to be proved, irrespective of such admission in the pleadings. It is the onerous duty of the plaintiffs to prove their case by way of leading cogent evidence in the context of property being ancestral in nature.

[7]. In view of above, this revision petition stands dismissed.

October 30, 2019

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Whether speaking/reasoned
Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No
Yes/No