

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

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**CMs No. 22329-30-CII of 2019
in/and CR No. 6714 of 2016
Decided on: 1.11.2019**

Surjit Kaur

.....Petitioner

Versus

Ajit Singh and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sumit Gupta, Advocate, for the applicant/petitioner

Mr. H.S. Aujla, Advocate, for respondents No. 1 and 4

Ritu Bahri, J.(Oral)

CM No. 22329-CII of 2019 :

Allowed as prayed for.

CM No. 22330-CII of 2019 :

Notice in the application.

Mr. H.S. Aujla, Advocate, present in Court, accepts notice on behalf of respondents No.1 and 4.

Heard. For the reasons mentioned in the application, the same is allowed subject to all just exceptions. The persons mentioned in para no.2 of the application are impleaded as LR's of petitioner Surjit Kaur and Parsni Kaur. Amended memo of parties is taken on record.

CR No. 6714 of 2016 :

The petitioner has come up in revision against the order dated 20.9.2016 whereby an application filed under Order 18 Rule 17 CPC for leading additional evidence has been dismissed.

The plaintiff/petitioner and defendants no.1 to 3 are co-owners, co-sharers in joint possession of land along with fixtures installed in the land including bore, tube well etc. and the plaintiff is having 1/4th share in the suit land and has sought declaration to the effect that mutation no. 37 dated 3.7.1969, sanctioned in favour of defendants no. 1 to 3 of inheritance of late Bhajan Singh son of Ram Singh, resident of village Rampur Mehra, Tehsil & District Ropar, is based on forged and fabricated Will dated 2.12.1968 and further declaration that transfer deed dated 26.2.2007, executed by defendant no. 3 in favour of defendants no.1 and 2 is wrong, illegal, null and void.

A perusal of the order shows that evidence of the plaintiff was concluded on 20.2.2016 and thereafter, after closing evidence of the defendants, the case was fixed for 26.8.2016 for rebuttal evidence. The plaintiff, at that stage, made the above said application on 20.9.2016. The plaintiff in his evidence had examined PW-4 Amarjit Singh, who had been summoned to bring the record of excerpt but after his cross examination on 9.7.2015, he did not bring the excerpt and the pedigree table and he was cross examined without bringing this record.

The grievance of the petitioner is that at the above stage of rebuttal evidence, he has brought photocopies of the documents with respect to the pedigree table, excerpt of the title document of the grand father. She wants to examine the *khasra girdawari*, pedigree table (*kursinama*).

Learned counsel for the petitioner further contends that PW-4 Amarjit Singh was a *patwari* at that time and he failed to bring the relevant record which was in his custody.

The revision is being resisted by learned counsel for the respondent and he has referred to the Supreme Court judgment in '**Ram Rati v. Mange Ram (D) thr. LRs. And others, 2016 (3) Scale 219**' to contend that recalling a witness for further elaboration under Order 18 Rule 17 CPC is to be done on a very limited purpose and this power can only be exercised to meet a situation if there is a specific provision to meet the situation and in the interest of justice. No party can take the benefit of recalling a witness to elaborate on left out points.

In the present case, the plaintiff had examined PW4 Amarjit Singh *patwari*, but he failed to bring the official record with respect to the *khasra girdawari* and pedigree table and for this the plaintiff cannot be found fault with. At the rebuttal stage, the application has been made in time to examine concerned *daftar kanungo*, who will bring the record, certified copy of the Will to be placed on record by the petitioner.

In view of the above facts, the revision is allowed. Order dated 20.9.2016 is set aside. Learned trial Court is directed to give one effective opportunity to the petitioner to examine the witness with the aforesaid record.

(RITU BAHRI)
JUDGE

1.11.2019
Ashwani

Speaking/Reasoned	:	Yes/No
Reportable	:	Yes/No