

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

**CR-7066-2017.
Decided on: May 6, 2019.**

Jarnail Singh and others

.. Petitioners

VERSUS

Dalbir Singh and others

.. Respondents

*** * ***

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

*** * ***

**PRESENT Mr.Rakesh Chopra, Advocate,
for the petitioners.**

**Mr.Nikhil Chopra, Advocate,
for the respondents.**

AMIT RAWAL, J. (ORAL)

The present revision petition is directed against the impugned order dated 25.9.2017 (Annexure P1), whereby the application under Section 151 CPC, filed by the petitioners for leading additional evidence has been declined.

Mr.Rakesh Chopra, learned counsel appearing on behalf of the petitioners submits that both the parties have led extensive evidence.

Defendants had relied upon two sale deeds dated 20 – 22/12/1957, on the basis of judgment and decree dated 1960 and had demanded to place on record photocopy of the judgment of the year 1960 which is under objection.

Counsel for the petitioners further submits that in order to rebut the same, the aforementioned application was filed to place on record copy of plaint dated 20.11.1958 (Urdu and its Punjabi translation) as well jamabandi for the year 1954-55 to connect the subject matter of the suit property.

It is further argued that no doubt during pendency of the suit numerous applications were filed which weighed in the mind of the Court in declining the same but the documents sought to be placed on record goes to the root of the matter and it would help the Court in adjudication of the *lis*.

Mr.Nikhil Chopra, Advocate, appearing on behalf of the respondents has argued that the revision petition is not maintainable on the premise that on decision of the similar application, Civil Revision No.6089 of 2017 was preferred and the same was dismissed with observations that in case the petitioners, so advised, would be at liberty to move appropriate application before the Court but filing of fresh application and its adjudication does not entitle the petitioner to file present revision petition as the order declining the application of similar nature still remains in tact nor the review of the order by moving fresh application is permissible under law. The judgment is already under objection which would be decided by

the trial Court at the final stage. There is a recital of the averment in the plaint. As with regard to jamabandi sought to be placed on record, he submits that exercise of due diligence is conspicuously wanting and thus, urges this Court for dismissal of the revision petition with exemplary costs.

I have heard the counsel for the parties, appraised the paper book and of the view that there is some force in the arguments of counsel for the petitioners vis-a-vis copy of jamabandi for the year 1954-55 as copy of the plaint and its Urdu translation would pale into insignificance.

Both the parties are relying upon the plaint as well as the recital of the same in the judgment of the year 1960. It will be open to the Court to take note of the veracity and authenticity of the documents at appropriate stage. Therefore, such prayer is declined. However, with regard to the jamabandi for the year 1954-55, post consolidation would reflect the old and new assignment of khasra number for adjudication of at least title as the defendants are also assailing the right in the property. No doubt the petitioners-plaintiffs have not been diligent at the time of leading evidence in affirmative but it cannot be said to fill the lacuna. This can also be taken care as the respondents would have right to raise objection as to the admissibility as per the provisions of Section 44 of the Punjab Land Revenue Act but will not prevent the plaintiffs to seek reliefs.

In view of above, the present civil revision is allowed to the extent that the petitioners-plaintiffs would be permitted to place on record only the copy of jamabandi for the year 1954-55 as prayed for, in accordance with law, subject to payment of costs of Rs.10,000/-.

At this stage, counsel for the petitioners-plaintiffs submits that the costs be reduced as his client has already lost his arm in an accident. In such circumstances, considering the prayer, the cost is reduced to Rs.7,000/-.

May 6, 2019.
raj arora

(AMIT RAWAL)
JUDGE

Whether speaking / reasoned	Yes / No
Whether reportable	Yes / No