

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

**CR No.7794 of 2018
Date of decision:16.05.2019**

Daya Ram @ Rajinder Singh and others ... Petitioners

Vs.

State of Haryana and others ... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Pawan Kumar Suri, Advocate for
Mr. R.S.Chauhan, Advocate
for the petitioners.

Mr. Ashish Gupta, Advocate
for respondents No.21, 23 and 26.

None for respondent/defendant no.27.

AMIT RAWAL J. (Oral)

The present revision petition is directed against the impugned order dated 25.10.2018 whereby application submitted by defendant no.27 for additional evidence to tender certain documents i.e. rapat roznamcha, dhakila form and e-challan, has been allowed.

Mr. Pawan Kumar Suri, learned counsel for the petitioners submitted that the plaintiff had filed the civil suit for declaration with consequential relief of permanent injunction against all the defendants and evidence was closed on 03.08.2018. Without challenging the aforementioned order, submitted an application tantamounts to filling up the lacunae and therefore, the application was liable to be dismissed in view of

the law laid down in **Chand Singh vs. Narinder Singh and others 1990(1) Criminal Law Journal 1992** and reiterated by this Court in **C.R.No.7791 of 2018 titled as Baljeet Vs. Hosiyara (since deceased) through LRs and others, decided on 16.11.2018.**

There is no representation on behalf of defendant/respondent no.27 despite service as indicated in the order dated 18.03.2019.

I have heard the learned counsel for the petitioners and appraised the paper book.

The plaintiff has sought the declaration of ownership and possession of the agricultural land on the premise that Bharat Singh-father, was the owner and land could not have been declared surplus. The mutation of inheritance was sought to be recorded after the demise of Bharat Singh. The suit for declaration challenging the land to be surplus was filed which was decreed vide judgment and decree dated 13.09.1988. Defendants no.6 to 14, i.e. legal representatives filed the civil suit bearing No.97 dated 18.3.1989/90 for declaration challenging the judgment and decree to be null and void which was ultimately dismissed in default under Order 9 Rule 8 CPC. The mutation bearing no.4472 was sanctioned in favour of the petitioners, vide order dated 25.10.2000 passed by A.C.Ist Grade, Nuh. Defendants no.21 to 23 challenged the aforementioned order of the Collector challenging the mutation bearing no.4472. The Collector accepted the appeal in a mechanical manner and therefore, cause of action accrued to file the writ petition. Despite the fact, the writ petition was not decided on

merits.

Defendant no.27 contested the suit by holding it to be not maintainable raising the objection qua jurisdiction of the Civil Court. It was stated that land at the hands of Bharat Singh was declared surplus, vide order dated 26.04.1966. No objection was ever raised. He moved an application under Section 9 to declare the other land surplus which was accepted, therefore, there was no cause of action.

I am of the view that even if defendant no.27 had not challenged the order dated 03.08.2018, the rapat roznamcha sought to be placed on record would definitely go to the root of the case and would help in deciding the controversy in correct perspective. Since vide order dated 03.08.2018, closing evidence of defendant has not been extracted or attached in petition, the judgment cited (supra) would not be applicable in the present case. The plaintiff is at liberty to lead rebuttal evidence, if need arises or in case the defendants had already led the evidence or would lead the evidence in terms of the order impugned. The order cannot be said to be suffering from illegality and perversity. No ground for interference is made out.

Resultantly, the revision petition is dismissed.

(AMIT RAWAL)
JUDGE

May 16, 2019

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Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No