

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

C.R. No.9007 of 2017 (O&M)
Date of Decision.16.01.2019

Santra		...Petitioner
	Vs	
Inder Singh and others		...Respondent

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Abhinav Sood, Advocate
for the petitioner.

Mr. Sunny Bhardwaj, Advocate
for the respondents No.2 to 6.

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AMIT RAWAL J. (ORAL)

The petitioner-plaintiff preferred the revision petition against the impugned order dated 12.12.2017 rejecting the application under Section 151 CPC for leading additional evidence by production of certified copy of jamabandi *samwat* 1958-BK of village Surethi Modian *naksha aashami vaar* along with Hindi translation of mutation No.4 of inheritance of Sikshan son of Sukhram, Hindi translation of *sajra nasab* of 1962-BK as could not be produced the same at the time of leading evidence, despite due diligence and they are essential and necessary for adjudication of the *lis*.

Mr. Abhinav Sood, learned counsel appearing on behalf of the petitioner submitted that petitioner-plaintiff filed the suit for declaration by challenging the impugned judgment and decree dated 15.04.1996 passed in Civil Suit No.281 of 16.03.1996 and consequential mutation, which has been obtained on the basis of fraud and misrepresentation as in place of Subhash (since deceased)

some other person impersonated and appeared. The plaintiff is owner in possession of the suit land, being daughter of Subhash.

When evidence of the plaintiff was closed and defendant had also concluded evidence, plaintiff filed application for additional evidence, which was rejected by the trial Court. The aforementioned order was assailed in this Court by C.R. No.5116 of 2016 and vide order dated 03.08.2017, the same was allowed by giving permission to the petitioner-plaintiff to tender documents, subject to costs of ₹3000/-. The aforementioned documents had been tendered but the factum of documents as indicated above came to the knowledge of the plaintiff later on and therefore, the present application was filed.

The order under challenge is not sustainable as technicalities of law and procedure of law is handmaid of justice should not come in the way, which would help the Court in adjudication of the *lis*. The petitioner may be allowed to lead additional evidence, subject to any terms and conditions, this Hon'ble Court may deem it appropriate, particularly when the defendants would also have right to rebut.

Per contra, Mr. Sunny Bhardwaj, learned counsel appearing for the respondents submitted that second perpetual application for additional evidence cannot be entertained, in view of the fact that the plaintiff had already complied with the order. There would be no end of it, thus, prayed for dismissal of the revision petition with costs.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is no force and merit in the

submissions of learned counsel appearing for the petitioner. It would be apt to reproduce operative part of order dated 03.08.2017 passed in the revision petition noticed above and the same reads as under:-

“Order dated 17.7.2017 has been perused. The previous orders have not been placed on file. If notice is given to the other side, that would delay the matter further. It appears that sufficient opportunity had been granted and therefore the evidence of the plaintiff had been closed by the Court. The case had been adjourned for 14.8.2017. It would be appropriate to give one opportunity to the plaintiff as she is only seeking to tender the revenue record.

The petitioner is permitted to tender the revenue record on the next date of hearing on deposit of Rs. 3,000/- as costs with the District Legal Services Authority. The deposit of the amount would be a condition precedent. The case would not be adjourned for the tender of documents by the plaintiff. The Court will examine the witnesses of the defendants if they are present on that day.

The petition is disposed of with the above directions.”

It is a matter of record that the petitioner-plaintiff has already complied with the order and tendered the certified copies of documents/revenue record on record but the documents now sought to be placed on record as noticed above, no explanation has come

forth as to how they are essential and necessary. The pleadings have to be carved out after noticing the revenue record but not in the manner and mode indicated above i.e. on convenience of the plaintiff. If such practice is permitted, there will not end to filing of perpetual applications. The application, thus, lacks bona fide and due diligence.

In view of such circumstances, I do not find any illegality and perversity in the order under challenge, much less, the same cannot be said to be passed without jurisdiction. No ground for interference is made out. The revision petition is dismissed.

(AMIT RAWAL)
JUDGE

January 16, 2019
Pankaj*

Whether Reasoned/Speaking	Yes
Whether Reportable	No