

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

Civil Revision No. 813 of 2019  
Date of decision: 4.2.2019

**Parbhati Lal**

**.. Petitioner**

**v.**

**Ram Sawroop and another**

**.. Respondents**

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Sandeep Kumar Yadav, Advocate for the petitioner.

...

**AVNEESH JHINGAN, J. (Oral)**

The present civil revision petition has been filed being aggrieved of the order dated 15.11.2018 passed by Additional Civil Judge (Senior Division), Kanina dismissing the application filed under Order XXI Rule 32 read with Section 151 of the Code of Civil Procedure, 1908 (for short, 'CPC') seeking permission for tendering some documents at the stage of rebuttal evidence.

The facts in brief are that the petitioner-plaintiff (hereinafter described as 'the petitioner') filed a suit for permanent and mandatory injunction. The said suit was partly decreed vide judgment and decree dated 15.3.2010. The operative part of the judgment is extracted below:

“Consequently in accordance with the determination of issues civil suit Parbhati v. Ramsarup, Civil suit No. 216 RT of 24.10.2001 is decreed partly and it is declared that gosa forming part of ahata No. 339/383 (0-14) and 335/379 (1-13) in the form of passage are being used by plaintiff Parbhati and others owners in possession of ahata no. 337/381, 334/378 and

335/379 excluding the gosa (1-13) and defendant in civil suit Parbhati v. Ramsarup are restrained from encroaching upon it or obstructing its use. The civil suit Dhansi Vs. Balbir, Civil Suit No. 314 RT of 26.6.2003 is decreed and defendant Balbir son of Harbhaj is directed to hand over the vacant possession measuring 42 sq. yards as per report Ex. P15 and Map Ex. P14. The civil suit Balbir Vs. Govt. of Haryana, Civil Suit No. 392/17.11.2004 fails and same is dismissed. In particular circumstances, parties are left to bear their costs of this suits.”

Aggrieved of the judgment and decree, the respondents-defendants (hereinafter described as 'the respondents') filed an appeal which was dismissed on 7.3.2014. Thereafter, the petitioner filed an execution application.

During the pendency of the execution application at the stage of rebuttal evidence and arguments, an application under Order XXI Rule 32 read with Section 151 CPC was moved by the petitioner for adducing additional evidence in the form of notice issued by the Gram Panchayat and an order dated 7.4.2018 passed in some other case. The said application was dismissed, hence the present revision petition.

Learned counsel for the petitioner states that in spite of the judgment and decree dated 15.3.2010, which was upheld in appeal vide judgment dated 7.3.2014, the respondents have encroached upon the rasta hence adducing of additional evidence is necessary.

The contention raised by learned counsel for the petitioner lacks merit. In the judgment and decree of the trial court, it was held that gosa forming part of ahata Nos. mentioned therein in the form of passage

were being used by the petitioner and others owners in possession and the respondents were restrained from encroaching or obstructing its use. The petitioner failed to show even *prima facie* as to how the order in another case and the notice issued by the Gram Panchayat itself would be essential for decision of the execution application. There is nothing in the paper book to establish that there is some subsequent development which necessitated adducing of additional evidence.

There is no merit in the revision petition. Accordingly, the same is dismissed.

**(AVNEESH JHINGAN)**  
**JUDGE**

4.2.2019  
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| Whether speaking/reasoned: | Yes/No |
| Whether reportable:        | Yes/No |