

VIKAS CHANDER  
2019.01.30 11:45

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

**CR no.659 of 2019**

**Date of Decision: 29.01.2019**

Jaspal Singh

...Petitioner

Vs.

Prem Chand and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH**

Present:- Mr. Viney Saini, Advocate,  
for the petitioner.

**Amol Rattan Singh, J (Oral)**

By this petition, the petitioner has challenged the order of the learned District Judge, Kurukshetra (appellate court), dated 05.10.2018, by which the application filed by respondents no.1 to 4 herein (appellants before that court), seeking a direction to the *Kanungo*, Kurukshetra, to prepare a revenue excerpt, has been allowed.

The revenue excerpt sought to be prepared was in respect of the property of one Chamela Ram son of Sh. Shadi, resident of Village Haripur Baram, Tehsil Thanesar, District Kurukshetra, in order to lead the said revenue excerpt by way of additional evidence to show that the suit property was actually ancestral property.

While allowing that application vide the impugned order, the trial court has still kept the application moved under Order 41 Rule 27 CPC in abeyance, for consideration on the next date of hearing, i.e February 22, 2019.

Learned counsel for the petitioner before this Court submits that despite not having actually allowed the application filed under Order 41

Rule 27 CPC, the learned appellate court has wholly erred in issuing a direction to the revenue official to prepare the excerpt sought by the respondents no.1 to 4, and consequently, the impugned order is liable to be set aside on that short ground alone.

Having considered the matter, I cannot agree with the learned counsel, for the reason that the application seeking to lead additional evidence has obviously been kept pending for that court to first determine as to whether the revenue excerpt sought to be led by way of additional evidence, deserves to be even considered for the purpose of the application under Order 41 Rule 27; and hence simply because the latter application has been kept in abeyance for first perusing the revenue excerpt to be prepared by the revenue authorities, and then taking a decision, no ground for setting aside the impugned order, in the opinion of this Court, is made out.

Consequently, while directing the learned appellate court to take a decision on the application moved under Order 41 Rule 27 CPC, wholly on its own merits (which naturally that court would do), I see no reason to entertain this petition.

Dismissed in limine.

29.01.2019  
vcgarg/dinesh

(Amol Rattan Singh)  
Judge

Whether speaking/reasoned : Yes  
Whether reportable : Yes