

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

CR-436-2020 (O&M)

Date of Decision: August 18, 2021

Sukhdev Singh and others ...Petitioners
Versus
Labh Singh ... Respondent

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. Ashutosh Hoshiarpuri, Advocate
for the petitioners.

Mr. Rakesh Chopra, Advocate
for the respondent.

FATEH DEEP SINGH, J. (Oral)

The matter has been taken up through
video-conferencing on account of lockdown due to outbreak of
pandemic COVID-19.

The present petitioners numbering 4 who are
plaintiffs before the Court of Additional Civil Judge, Senior
Division (Fatehgarh Sahib) in a suit for declaration and
permanent injunction had earlier filed an application for
additional evidence. The same stood declined and dismissed

vide impugned order dated 3rd December 2019 by the Court of learned Additional Civil Judge, Senior Division, Fatehgarh Sahib. Aggrieved over these findings, the instant petition has come about by the unsuccessful plaintiffs/revisionists.

Heard Mr. Ashutosh Hoshiarpuri, Advocate for the petitioners and Mr. Rakesh Chopra, Advocate for the respondent and perused the records.

It is quite apparent that the plaintiffs-revisionists had earlier filed a suit for declaration to the effect that the suit land subject-matter of the dispute between the parties was a co-parcenary property of plaintiffs and that upon death of the owner Raunak Singh they have come to be joint owners in possession of 1/3rd share of the same. Thus, at that point of time when the suit was initiated, the revisionists were fully aware of the relief they were seeking and what was essential for them to prove to seek relief in question for which they had filed suit. It is after availing of more than 40 effective hearings to lead evidence and having failed to bring on record evidence to support their claim and when the suit was fixed for rebuttal evidence and arguments had the audacity to move the

application for leading additional evidence. From this conduct of the revisionist-plaintiffs, it is quite apparent that they have been highly careless in contesting the suit and in spite of being aware of the claim and counter-claim failed to lead evidence in that direction. It is not a case where the plaintiffs-revisionists have been taken by surprise or evidence was not previously known to them or could not be produced in spite of exercise of due diligence. It is with this intent the provisions of Order 18 Rule 17(A) of un-amended CPC were obliterated and which deletion was to prevent the misuse of the provisions by the parties to prolong the litigation.

Not only this the revisionists had adverted to another gimmick by moving another application for framing of additional issues and which too was declined by the same very Court vide order dated 23.10.2019 is rather suggestive that frantic efforts are being made to belatedly improve the case of the plaintiffs-revisionists to plug in the loopholes and fill in the lacunas that apparently were discovered by them when the matter was fixed for rebuttal evidence and arguments.

The Court below has taken clear note of this intentional act of the revisionists and has rightly held that it was sheer inclination of the plaintiffs/revisionists which has led to this and when the application for framing of additional issues was declined the present application for additional evidence has come about. The counsel for the plaintiffs/revisionists could not convince this Court how there has been miscarriage of justice. The plea that recent judgment had underlined all the elements that are necessary to prove co-parcenary rather to the mind of this Court was well detailed in the Hindu Law decades ago rather is another distressing feature to the case of the petitioners.

There is no merit in the petition and the same is, accordingly, dismissed.

August 18, 2021
amit rana

(FATEH DEEP SINGH)
JUDGE

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