

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

CR-1897 of 2021 (O&M)

Date of decision: 06.10.2021

Gian Singh

...Petitioner

Versus

Achhar Kumar

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Vishal Aggarwal, Advocate for the petitioner.

Mr. Saurabh Kaushik, Advocate for the respondent.

H.S. MADAAN, J.

In a civil suit for recovery filed by plaintiff Achhar Kumar against defendant Gian Singh under Order 37 CPC, there was a contest and when the case reached at the final stage, the defendant filed an application for additional evidence to tender a copy of jamabandi; that application was opposed on behalf of the plaintiff; vide impugned order dated 06.08.2021, the application was dismissed. The operative part of the order runs as under:-

“6. It is settled a principle of law that it is the duty of the Court to come to a definite conclusion and to see whether the additional evidence to be adduced is necessary to reach to the right decision or not. The court is having power to permit fresh evidence in case the evidence to be adduced by either of the party is relevant for just decision of the case, but there should be valid reasons for that. It was held by the Hon'ble Apex Court in K.K.Velusamy Vs. N.Palamsamy, 2011(3) Law Herald(SC) 2036 that by

recording valid reasons, appropriate cost can be awarded to the other party to compensate for the delay and in case the application is found to be mischievous or frivolous or to cover up negligence or lacunae, it should be rejected with heavy costs. If additional evidence is found to be non genuine or irrelevant, exemplary cost be awarded apart from prosecution, if it involves fabrication of evidence.

7. Perusal of the file shows that the present suit for recovery of Rs. 4,87,360/- has been filed by the plaintiff alleging that the defendant took a cash loan of Rs. 4,00,000/- from the plaintiff as a Collateral security executed a pronote and receipt on 13.05.2016 in the presence of marginal witnesses. On the other hand, the defendant has denied the claim of the plaintiff and has alleged that the pronote in question is forged and fabricated. By way of the instant application the defendant seeks to tender into additional evidence copy of Jamabandi for the year 2017-2018 of the land of the plaintiff but no where it has been mentioned by the defendant as to why he wants to tender copy of Jamabandi for the year 2017-2018 and what is its relevance in the present case. The application of the defendant is vague since it nowhere states the purpose of tendering into additional evidence the Jamabandi for the year 2017-2018, at this stage where the case is fixed for rebuttal evidence and arguments. Also it is not a case that the evidence which he amounts to tender by way of present application was not available or in the knowledge of the defendant earlier at the stage of his own evidence. Also if the present application is not allowed, no prejudice will be caused to the defendant, since the present suit is of recovery on the basis of pronote having been executed by the defendant in favour of plaintiff and the same is not regarding any title or any property or land. Accordingly, in

view of discussion made above, the instant application is dismissed.”

This order left the defendant aggrieved and he has filed the present revision petition, notice of which was given to the respondent/plaintiff, who has put in appearance through counsel.

I have heard learned counsel for the parties besides going through the record and I find that the revision petition is absolutely devoid of merit. The jamabandi in question hardly has any relevance to the dispute between the parties inasmuch as the plaintiff claimed that defendant had raised a loan of Rs.4 lacs from him, executing pronote and receipt on 13.05.2016, which fact was denied by the defendant alleging the pronote and receipt to be forged and fabricated documents. The copy of jamabandi relating to the property of plaintiff has not much relevance to the said controversy. Furthermore, the application had been filed at a highly belated stage, when the case was mature and fixed for rebuttal and arguments. If the trial Court had allowed the application, that would have amounted to reopening the controversy and putting the clock back, which was uncalled for. The order passed is quite detailed, well reasoned and it does not suffer from any illegality or infirmity.

As regards the judgments referred to by learned counsel for the revisionist i.e. **Ravinder Singh Vs. Parkash Singh & Ors.**, in CR-2432-2007 decided on 27.08.2008 and **Rajesh Kumar Vs. Mangat Rai & Ors.** in CR-6977-2010 decided on 15.11.2011, the same are not helpful to the revisionist due to different facts and circumstances including the context in which such observations were made.

The case of petitioner did not fall within four corners of Order 18 Rule 17A CPC and application for additional evidence was rightly declined by the trial Court, vide impugned order. There is no reason to interfere with such order by way of exercising revisional jurisdiction. Finding no merit in the present revision petition, the same stands dismissed accordingly.

06.10.2021
sumit.k

(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No