

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

CR-4198-2016

Date of decision : 25.08.2022

Hansraj

...Petitioner

Vs.

Raghvir and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Ashok Kumar Jindal, Advocate
for the petitioner.

MANOJ BAJAJ, J.

Petitioner (plaintiff No.15) is aggrieved against the order dated 01.04.2016 passed by Civil Judge (Junior Division), Mewat, whereby his application for adducing additional evidence was dismissed.

The brief facts leading to the revision petition are that the plaintiffs jointly filed a suit for declaration with consequential relief for permanent injunction against the defendants and claimed that they are in actual physical possession of the suit property as mentioned in the plaint as *hissedar of shamlat thulla haveliyan* and the defendants attempted to dis-possess them forcibly, but it failed because of intervention of the respectable persons. As per the pleadings, defendants (respondent Nos.11 to 15) have set up title of the suit property as they claim that the suit property was purchased by them from defendants (respondent Nos.1 to 10). The plaintiffs came to learn that their names were wrongly changed in the revenue entries with the collusion of the village patwari, who incorporated the names of the defendants/respondent Nos.1 to 15. On this broad cause of action, they filed the suit.

The suit is being contested by the defendants, who filed written

statement, and after completion of pleadings, the trial commenced and parties adduced their respective evidence. When the suit reached at the stage of rebuttal and arguments, plaintiff No.15 filed the application for adducing additional evidence seeking permission to examine village patwari as the said witness is necessary for proper adjudication of the case.

The said application was contested by respondents (defendants) by filing their reply and considering the pleadings and grounds, Civil Judge (Junior Division), Mewat vide impugned order dated 01.04.2016 dismissed the said application.

Learned counsel for the petitioner has argued that though the witness sought to be examined by way of additional evidence was shown as defendant witness and the plaintiffs were expecting that they would cross-examine him, but as the defendants did not examine him and closed their evidence, plaintiff No.15 moved the application for examining him in additional evidence. He submits that trial Court has erroneously dismissed the said application as according to him, in case the plaintiff No.15 is allowed to adduce evidence, no prejudice would be caused to the other side. He prays that the impugned order be set aside.

After hearing learned counsel and considering the above background, this Court finds no merit in the arguments advanced by the learned counsel, because a perusal of the application filed by the petitioner shows that the applicant-plaintiff has not elaborated the purpose of examination of village patwari, and it simply mentions the fact that his examination is necessary. Besides, considering the nature of the suit and the fact that all the 15 plaintiffs had already closed their evidence, there does not appear any

justification for allowing the plaintiff No.15 to lead additional evidence. Further, by virtue of the amendment in Civil Procedure Code, whereby the specific provision relating to additional evidence contained in Order 18 Rule 17-A stands omitted w.e.f. 01.07.2022, therefore, ordinarily, this jurisdiction cannot be exercised under Section 151 Code of Civil Procedure.

A reading of the impugned order reveals that Civil Judge (Junior Division), Mewat has carefully examined the facts and circumstances of case and has given valid reasons for rejecting the application, and the impugned order does not suffer from any illegality or impropriety.

Resultantly, the revision petition fails and is dismissed.

(MANOJ BAJAJ)
JUDGE

25.08.2022
vanita

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