

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 8424 of 2017 (O&M)

Date of Decision: 15.03.2022

Atma Singh

... Petitioner(s)

Versus

Gurwinder Singh and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Jasmeet Singh Bhatia, Advocate
for the petitioner(s).

Mr. Vipin Mahajan, Advocate
for the respondent No.1 to 3.

Anil Kshetarpal, J.

1. While assailing the correctness of the order, passed by the trial Court, dismissing an application for permission to lead additional evidence, the defendant No.4 has filed the present revision petition.

2. The respondents filed a suit for declaration that the plaintiff and the defendant No.2 and 3 are the owners in possession of 13 Marlas (min charda), out of the land measuring 1 Kanal 6 Marla, comprised in Khasra No. 66. The plaintiff also prayed for a decree of joint possession. The defendant No.1 and 4 contested the suit and asserted that the land has already been redeemed along with another parcel of the land. During the pendency of the suit, the petitioner filed an application in order to produce and prove in evidence the receipt and redemption of mortgage on 17.06.1972. The trial Court dismissed the application on the ground that the

same is beyond the pleadings.

2. Heard the learned counsel representing the parties, at length and with their able assistance, perused the paper-book.

3. The learned counsel representing the petitioner *inter alia* contends that it is the case of the petitioner in the suit that the suit property has already been redeemed. He submits that since the receipt dated 17.06.1972 was not traceable, therefore, on being traced, an application for permission to lead additional evidence has been filed.

4. Per contra, the learned counsel representing the respondent No.1 to 3 (the plaintiffs) contends that while filing the written statement, the petitioner has asserted that the suit land was redeemed as per the receipt dated 12.06.1972, whereas the receipt, sought to be produced in additional evidence, is dated 17.06.1972.

5. After having heard the learned counsel representing the parties, this Court is of the considered view that the trial Court has erred while dismissing the application on the ground that the document, sought to be produced in additional evidence, is beyond the pleadings. As per the provisions of Order VI Rule 2 CPC, the pleadings, in a suit, are required to be confined to the material facts and not evidence. It has been specifically stated that such material facts are required to be stated in a concise form. The evidence is not required to be pleaded. Moreover, it is the case of the defendants that the mortgage has already been redeemed, therefore, the trial Court has erred while observing that the document, sought to be produced in additional evidence, is beyond the pleadings.

6. Keeping in view the aforesaid facts, the present revision petition is allowed and the order dated 09.11.2017 is set aside. The

application for seeking permission to lead additional evidence is allowed.

The trial Court is directed to proceed with the matter.

7. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

March 15, 2022

“DK”

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No