

125 **IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(through video conferencing)**

CR-876-2022
Decided on : 14.03.2022

Gram Panchayat, Village Khurampur

..... Petitioner

Versus

Krishan Kumar and others

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Navneet Singh, Advocate
 for the petitioner.

Manjari Nehru Kaul, J.(Oral)

Instant petition has been filed under Article 227 of the Constitution of India read with Section 151 CPC for setting aside the order dated 28.02.2022 (Annexure P-5) passed by Civil Judge, Jr. Div., Sonipat whereby application for leading additional evidence filed by respondents No.1 to 7 was allowed.

2. Respondents No.1 to 7(plaintiffs) filed a suit for permanent injunction restraining the petitioner-defendant from dispossessing the respondents No.1 to 7 from the suit land comprising in Khewat No.71 Khatoni No.71 Rectangle and Killa No.10//21 (8-0), 22/1 (4-0), 11//16/2 (0-8), 24/2 (2-4), 25/2 (7-2), 36//16/1 (5-4), 25 (8-8), 37//21(8-0), 22(8-0), 23(8-0), 47//1 (8-0), 2 (8-0), 48//1 (8-0), 2(8-0), 3(8-0), 4(8-0), 5(8-0)49//5 (9-0) total measuring 124 kanals 06 marlas situated in the revenue estate of village Khurampur Sub Tehsil Rai District Sonapat forcibly and also from demolishing the tubewells, kothas and the electricity transformers installed in the suit land of the respondents-plaintiffs.

3. At the stage of rebuttal evidence, the plaintiffs-respondents filed an application under Order 41 Rule 27 CPC for leading additional evidence by stating that at the time of leading evidence on their behalf, the certified copies of complaints and judgments and decrees titled as Ghasita and others versus Har Lal and others in Civil Suit no.117 of 1966 dated 15.01.1968 and titled as Umrao Singh versus G.P.Khurampur dated 16.01.1958 could not be produced. It was the case of the plaintiffs-respondents that the aforementioned documents were related to the suit property in which Civil Court had decided that the suit property vested in the proprietors of the village and the gram panchayat had no right, title or interest in the same.

4. Learned counsel for the petitioner-defendant inter alia submits that the contesting respondents(plaintiffs) were wanting to lead evidence beyond their pleadings and which has been erroneously allowed by the Court below. Learned counsel further submits that not only did the Court below misinterpret the judgment of Hon'ble Supreme Court rendered in ***K.K.Velusamy vs. N.Palaanisamy, 2011(11) SCC 275*** but had also erroneously held that the evidence, which the plaintiffs-respondents were wanting to lead by way of additional evidence, was per se admissible in evidence, without appreciating that the documents in Urdu without Hindi translation, could not be per se admissible in evidence.

5. Heard learned counsel and perused the relevant material on record.

6. The plaintiffs-respondents moved an application under Order 41 Rule 27 CPC for leading additional evidence by furnishing additional documents i.e. certified copies of complaints and judgments dated 15.01.1968

and 16.01.1958 respectively passed by Civil Court and Revenue Court respectively. Admittedly, these documents relate to the suit property wherein it was held that the suit property vested in the proprietors of the village and thus, the gram panchayat had no right, title or interest in the same. The existence of these aforementioned documents has also not been disputed by the petitioner-gram panchayat. The Court below has rightly observed that even though the plaintiffs-respondents did not mention about the aforementioned documents in their pleadings, however, that evidence could still be led during trial as it is a general rule of law that the party in its pleadings is to only plead facts and not evidence. Hence, mere delay in bringing the evidence on record cannot be a ground for disallowing the application for additional evidence. Even otherwise, certified copy of the judgment per se would be admissible in evidence. The application for leading additional evidence was thus, rightly allowed for the proper adjudication of the case.

7. As a sequel to above, no ground is made out to interfere in the impugned order passed by the Court below. Accordingly, the present petition stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

14.03.2022

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