

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

CR-2013-2019 (O&M)

Reserved on : September 13, 2022

Date of Pronouncement : October 29, 2022

Dinesh and others

.....Petitioners

Vs.

Rajender Singh others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Rakesh Nehra, Senior Advocate with
Mr. Sauhard Singh, Advocate and
Mr. Ankit Yadav, Advocate
for the petitioners.

Mr. Jai Vir Yadav, Senior Advocate with
Ms. Pooja Yadav, Advocate
for the respondents.

ARVIND SINGH SANGWAN, J.

Prayer in this petition is to set aside the order dated 7.3.2019 passed by the trial Court, vide which the application filed by the petitioners-plaintiffs to seek permission to lead additional evidence, was dismissed.

Brief facts of the case are that the petitioners have filed the a suit seeking permanent injunction against respondents-defendants praying for a decree to restrain them from dispossessing in the suit

property or encroaching upon the same, which is Plot No.563/2E. The respondents appeared and contested the suit.

After the issues were framed, the trial Court allowed the parties to lead their respective evidence.

The evidence of the plaintiff was closed on 16.12.2017 and, thereafter, the defendants evidence was also closed. At the stage when the case was fixed for rebuttal evidence, if any, and for final arguments, the plaintiffs moved this application to lead the additional evidence to the effect that they may be permitted to produce certified copy of the jamabandi for the year 1991-92 and mutation No.3755 dated 13.5.2008 and mutation No.2526 dated 22.3.1983 relating the village Barahi to prove the ancestral nature of the land.

The application was dismissed by the trial Court vide impugned order dated 7.3.2019 holding that the same has been filed at a belated stage just to delay the proceedings of the case.

Learned Senior Counsel has argued that the case of the plaintiffs is that they are descendants of one Ballu and in their village Barahi, consolidation proceedings have not taken place and, therefore, pedigree table showing the descendants of Ballu has also not been prepared by the Revenue Department. It is submitted that non-production of the certified copy of the pedigree table and the jamabandies and mutations, which is the revenue record prepared by

the revenue officials and is maintained in the office could not be led despite due diligence and on account of non-availability of the same.

It is further argued that the proposed evidence will help the trial Court to come to a just and fair conclusion regarding the nature of the land and no prejudice will be caused to the defendants if the same is allowed as the defendants can be compensated by way of cost.

Learned Senior Counsel for the respondents has, however, raised an objection that the revenue record was very much in the knowledge of the petitioners-plaintiffs, who have closed the evidence and, thereafter, the defendants also closed the evidence. It is argued that the suit was filed in the year 2014; issues were framed on 13.7.2016 and after availing 17 opportunities, the evidence of the plaintiffs was closed.

It is argued that, in fact, it is the case of the defendants that Plot No.563/2E is not in existence at the spot and if this proposed evidence is allowed, the same will have no assistance to the trial Court.

After hearing the learned counsel for the parties, the Court finds merit in the case of the petitioners.

Firstly, the proposed additional evidence, i.e. the jamabandi and mutation, are *per se* admissible documents and can be produced by the plaintiffs and no prejudice will be caused to the defendants as the case of the defendants is that there is no such plot, as alleged by the

plaintiffs, is in existence at the spot and the plaintiffs have no concern with Ballu.

It is also well settled principle of law that additional evidence, if it is relevant to the just and fair decision of the case, cannot be declined only on the ground that the application is filed at a belated stage.

In view of the above, this petition is allowed and the impugned order dated 7.3.2019 is set aside and the application for leading additional evidence is allowed. The trial Court will grant one effective opportunity to the petitioner to lead the additional evidence with a right to the defendants to rebut the same, in accordance with law.

Considering the fact that this petition is pending since 2019, and a period of three years has elapsed and there is stay of proceedings before the trial Court, the trial Court will decide the suit expeditiously, preferably within a period of six months from today. However, this will be subject to payment of costs of Rs.10,000/- to be paid to the respondent-defendants.

(ARVIND SINGH SANGWAN)
JUDGE

October 29, 2022
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Whether speaking/reasoned : YES / NO

Whether reportable : YES / NO