

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

CR-1869-2022
Decided on : 12.05.2022

Sukhdeep Singh

..... Petitioner

Versus

Sadhu Singh (deceased) thr. LRs and others

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Rakesh Chopra, Advocate with
 Mr. Jashan Chopra, Advocate
 for the petitioner.

Manjari Nehru Kaul, J.(Oral)

The petitioner is plaintiff, in the suit and is aggrieved by the impugned order dated 25.03.2022 (Annexure P-1), passed by Addl. Civil Judge (Sr. Divn.) Patiala, vide which application (Annexure P-2) for permission to lead additional evidence with respect to ancestral and co-parcenary nature of the suit property, was declined.

Learned counsel for the petitioner *inter alia* contends that no doubt it has been observed in the impugned order that as many as nine effective opportunities had been given to the petitioner and it is only thereafter, the evidence were closed in the affirmative; however, while inviting the attention of this Court to the zimni orders, which are reproduced in the body of paperbook, learned counsel submits that on the first date i.e. 23.03.2020, when the petitioner's evidence was to commence, there was nationwide curfew on account of outbreak of pandemic and thereafter case was adjourned to various dates as per instructions of Hon'ble Punjab and

Haryana High Court. Learned counsel submits that the entire case of the petitioner is based with respect to the nature of property being ancestral/coparcenary, therefore, the revenue records sought to be adduced by way of additional evidence are necessary for just and effective adjudication of the case. Learned counsel submits that the relevant documents are already on judicial file and hence, it would not in any way cause prejudice to the case of opposite party. Learned counsel further submits that two witnesses i.e. Bhajan Singh to prove the translation of the revenue records and the office Kanungo qua report of non-availability of mutation No.102 are also required to be examined in support of the aforesaid revenue records.

Heard learned counsel and perused the impugned order.

No doubt, nine effective opportunities were granted to the petitioner to adduce his evidence. However, the fact remains that on account of the pandemic, normal Court proceedings could not take place. In case the petitioner is not granted another opportunity to adduce his evidence, he could suffer irreparable loss, which in turn may result in miscarriage of justice. To settle the equity, the respondents can always be compensated with suitable costs.

Therefore, without issuing any notice to respondents and to avert any further delay, and also expenses which the respondents may have to incur to defend these proceedings, the impugned order dated 25.03.2022 is set-aside and the revision petition is disposed of in the following terms:-

- (i) The petitioner-plaintiff shall appear and adduce his evidence on the next date of hearing before the trial

Court.

- (ii) In the event of default, the matter shall not be adjourned and no further opportunity shall be granted to the petitioner-plaintiff. The petitioner-plaintiff's evidence would then be deemed to be closed.
- (iii) This, however, shall be subject to costs of Rs. 10,000/-, to be paid to the respondent, which shall be a condition precedent.

(MANJARI NEHRU KAUL)
JUDGE

12.05.2022

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Whether speaking/reasoned:

Yes/No

Whether reportable :

Yes/No