

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.2257 of 2022 (O&M)

Reserved on : 01.06.2022

Date of Decision : 04.07.2022

Sunder Singh

....Petitioner

VERSUS

Kartar Singh and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Kulvir Narwal, Advocate for the petitioner.

ALKA SARIN, J.

The present revision petition under Article 227 of the Constitution of India has been filed challenging the order dated 11.03.2022 (Annexure P-8) passed by the Additional Civil Judge (Senior Division), Bahadurgarh allowing the application filed by the plaintiff-respondents under Section 151 of the Code of Civil Procedure, 1908 (for short 'CPC') seeking permission to produce additional evidence.

Learned counsel for the defendant-petitioner herein has stated that the present application for production of additional evidence had been filed at a belated stage and only to fill-in the lacuna in the case. It is further the contention that the plaintiff-respondents did not produce the evidence in the affirmative and, hence, the application for producing additional evidence at a belated stage ought not to have been allowed.

I have heard learned counsel for the defendant-petitioner.

In the present case the plaintiff-respondents in their plaint had stated that previously the suit property was owned by the ancestors of the parties, namely, Not Ram, Chand Ram and Jas Raj sons of Ganga Ram.

However, the pedigree table as given by the plaintiff-respondents in the plaint was denied in the written statement and during the evidence of the plaintiff-respondents they could not tender the certified copy of the pedigree tables for the years 1909-10 and 1939-40 with their Hindi versions and of the year 2008-09, despite due diligence. The defendant-petitioner had also taken a plea that the suit was bad for partial partition and that the other joint property had not been included in the present suit. The plaintiff-respondents by filing the application under Section 151 CPC for producing additional evidence also sought permission to place on record certified copies of the plaint and written statements in Civil Suit No.22 of 2015 titled “Kartar Singh etc. vs. Pawan etc.” regarding the property comprising Plot No.220 (1-14) total measuring 1 *kanal* 14 *marlas* situated within the *abadi* of village Soldha, which was jointly owned and possessed by the parties to the present suit along with other co-sharers. The Trial Court vide the impugned order dated 11.03.2022 allowed the application for additional evidence on the ground that the documents would be relevant for an effective decision of the case. While allowing the said application, the Trial Court also held that the defendant-petitioner would be given an opportunity to rebut the said documents and since the application was filed at a belated stage, an amount of Rs.3000/- was imposed as costs to be paid to the defendants and an amount of Rs.2000/- to be paid to the SDLSA, Bahadurgarh.

The plaintiff-respondents in the present case have sought to produce on record certified copies of the pedigree tables along with Hindi versions pertaining to the years 1909-10, 1939-40 and 2008-09. Though, the pedigree table as given in the plaint was denied by the defendant-petitioner,

however, no pedigree table was mentioned by the defendant-petitioner in the written statement. The certified copies of the pedigree tables would be essential and necessary for the Court to come to a proper conclusion in the suit. Further, the other documents sought to be produced as additional evidence are certified copies of the plaint and written statements filed in another case. Merely because there has been a delay in filing the application for additional evidence or in producing the documents, which ought to have been produced at the initial stage of the evidence, would be no ground to dismiss the application.

Learned counsel for the petitioner has not been able to show any prejudice which would be caused to the defendant-petitioner. Rather, the Trial Court while allowing the application has given an opportunity to the defendant-petitioner to rebut the documents sought to be produced by the plaintiff-respondents.

In view of the above, I do not find any illegality or infirmity in the impugned order dated 11.03.2022 passed by the Additional Civil Judge (Senior Division), Bahadurgarh. The present petition being devoid of any merit is dismissed.

Dismissed.

04.07.2022
jk

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO