

In the High Court of Punjab and Haryana, at Chandigarh**Civil Revision No. 4537 of 2018****Date of Decision: 30.10.2023**

Dharambir and Another

... Petitioner(s)

Versus

Smt. Kaushal and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.Present: Mr. Ketan Antil, Advocate
for the petitioner(s).Mr. Ajay Kumar Gupta, Advocate
for the respondent No.1 to 3.**Anil Kshetarpal, J.**

1. In this revision petition, the defendant No.1 and 2 challenge the correctness of the interlocutory order passed by the trial Court while permitting the plaintiffs to produce in additional evidence the judgment and decree dated 17.11.2007, copy of the plaint, written statement, the statement of the parties as well as the copies of jamabandis from 1903-1904 to 1991-1992 and copies of mutations.

2. The trial Court has found that the documents sought to be produced in additional evidence are the material documents for the final decision of the case, therefore, the application for permission to lead additional evidence has been allowed.

3. The learned counsel representing the petitioners contends that the documents sought to be produced in the additional evidence are in the

nature of affirmative evidence which the plaintiffs were required to produce

Civil Revision No. 4537 of 2018

and prove while leading their affirmative evidence. The learned counsel submits that at this stage, the plaintiffs cannot be permitted to lead evidence which is in the nature of rebuttal evidence.

4. This Court has considered the submissions, however, finds no merit therein. The application filed by the plaintiffs for permission to produce the additional evidence has been allowed. In additional evidence, the plaintiffs are permitted to lead the evidence which they, despite due diligence, failed to produce. The scope of additional evidence is not restricted to the evidence which is permitted as a rebuttal evidence.

5. Keeping in view the aforesaid facts, no ground to interfere is made out particularly when the trial Court has positively recorded a finding that the documents sought to be produced are the material piece of evidence which would help in deciding the case. However, once the plaintiffs have been permitted to lead additional evidence, an opportunity to the defendants is required to be granted.

6. Keeping in view the aforesaid facts, the present revision petition is disposed of with the direction to the trial Court to grant an opportunity to the defendants to lead their evidence in order to rebut the additional evidence produced by the plaintiffs.

(Anil Kshetarpal)
Judge

October 30, 2023

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No