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

**CM-5352-CII-2023 in/and
CR-683-2015 (O&M)
Date of Decision: 11.04.2023**

Sheela Devi and another

....Petitioners

Versus

Devinder Kumar and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Rajeev Sharma (Raju), Advocate
for the applicant/petitioners.

None for respondents No.1 and 2.

Service upon respondents No.3 & 4 is dispensed with.

ARUN MONGA, J. (ORAL)

CM-5352-CII-2023

For the reasons stated in applications, same are allowed subject to all just exceptions. Order dated 16.03.2023 is recalled and the main case is restored to its original number and same is taken up on Board for hearing today itself.

Main Case

Petition herein is for setting aside order dated 03.11.2014 (Annexure P-5) passed by Ld. Civil Judge (Jr. Divn.), Rohtak, whereby the application for adducing additional evidence filed by petitioners, was dismissed.

2. Learned counsel for petitioner/defendants, *inter alia*, contends that in the suit filed by respondents No.1 and 2 for permanent & mandatory injunction, respondent No.1 was examined as PW5 and during his cross-examination, he

admitted that an agreement to sell was executed by respondent No.2 on 28.02.2007. Therefore, petitioners filed an application for adducing additional evidence to produce the agreement dated 28.02.2007 and a notice from Municipal Corporation, Rohtak which would show that in the agreement to sell dated 28.02.2007 which was executed by respondent No.2, land of others has been shown in north direction, whereas in the plaint, the portion in north direction was shown to be the property of respondents No.1 and 2 and the said agreement to sell is a necessary document. Hence, the impugned order passed by Ld. trial Court is erroneous and illegal.

3. I have heard learned counsel for petitioner and gone through the case file.

4. Multiple attempts have been made to serve respondents as is borne out from order sheets but they chose not to appear, which seemingly shows that respondents No.1 and 2/plaintiffs have no objection if the application moved by petitioners for adducing additional evidence is allowed.

5. Keeping in view the facts and circumstances of the case, I deem it appropriate to grant one more opportunity to petitioners to adduce additional evidence, as applied for, subject of course to the discretion of Ld. trial Court to grant further opportunity depending upon the exigency of work. Accordingly, the impugned order is set aside and the revision petition is allowed.

6. Pending civil miscellaneous application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

April 11, 2023
ashish

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