

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

CR-1324-2023(O&M)

Date of decision:-28.2.2023

Surti Singh

...Petitioner

Versus

Gurmail Singh

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Amit Dhawan, Advocate
for the petitioner.

H.S. MADAAN, J.

1. In a civil suit filed by the plaintiff Gurmail Singh against defendant Surti Singh pending in the Court of Additional Civil Judge(Sr.Divn.), Nakodar, the defendant had filed an application under Section 151 CPC for leading additional evidence contending that in the written statement filed by him, he had taken up a plea that some part of disputed land is under common passage on one side and that land owned by defendant comprising Killa No.31//1/1/(3-7) is on the back side of house of the plaintiff and some part of this khasra number is under commonly used passage but no demarcation was got done by the plaintiff, however the defendant could not lead evidence in that regard when case was fixed for the purpose of leading evidence by him. Nevertheless for proper adjudication of the case demarcation of the brick paved passage and killa No.31//1/1(3-7) by revenue officials is required.

2. That application was resisted by the plaintiff contending that

after adducing evidence, the defendant now intends to fill up lacunae in his case and filing of application by defendant is an attempt to get the evidence collected on his behalf, which is not permissible; the defendant had not filed any application before the revenue authorities for taking the demarcation. The plaintiff craved for dismissal of the application.

3. After hearing arguments by learned counsel for the parties, the trial Court had observed that Order 18 Rule 17-A CPC a specific provision in the Code of Civil Procedure providing for leading of additional evidence had been deleted by the Legislature and provision of Section 151 CPC can be used only where there is no specific provisions in the CPC and once the provisions of additional evidence had been specifically deleted from the Code, such relief cannot be obtained by making reference to Section 151 CPC. The trial Court has observed that the document, which the defendant wants to prove at this stage was very much within his knowledge, when the written statement was filed and furthermore, both the parties have already concluded their evidence. The plaintiff had closed his rebuttal evidence and case was fixed for arguments when the present application was filed. It has further been observed that when the Local Commissioner had visited the spot and given the report then he had not informed the opposite party in that regard. The trial Court has categorically observed that filing of the application is nothing but a delaying tactics. Therefore, no merit was found in the application and it was dismissed.

4. Such order left the revision petitioner/defendant aggrieved and he has approached this Court by way of filing the present revision

petition.

5. I have heard learned counsel for the petitioner besides going through the record and I find that there is absolutely no merit in the revision petition.

6. The impugned order passed by the trial Court is quite detailed and well reasoned and it does not suffer from any illegality or infirmity and is not having any element of arbitrariness or perversity. The discretion has been exercised in a judicious manner. The trial Court has given valid reasons for dismissing the application. The revisional jurisdiction of this Court is quite limited and considering the facts and circumstances of the case, there is no reason to interfere with the impugned order by way of exercising the revisional jurisdiction.

7. Finding no merit in the revision petition, the same stands dismissed.

Since the main revision petition has been dismissed, the miscellaneous application(s), if any, stand disposed of accordingly.

28.2.2023
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(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No