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

CR-1433-2022 (O&M)
Date of decision: 18.01.2023

SATBIR AND ORS

...Petitioners

VS

RAJINDER AND ORS

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Nitin Jain, Advocate and
Mr. G.S.Randhawa, Advocate,
For the petitioners.

Mr. Manoj Tanwar, Advocate,
For respondent No.1.

ARUN MONGA, J.(ORAL)

Petition herein, under Article 227 of Constitution of India is for setting aside the order dated 05.04.2022 (Annexure P-11) passed by learned Additional Civil Judge (Senior Division), Hisar whereby in a suit for declaration filed by respondent No.1/plaintiff, application for additional evidence filed by him, was allowed.

2. Learned counsel for petitioner/defendants contends that evidence of plaintiff/respondent No.1 was closed on 24.11.2017 and thereafter, the defendant/petitioners concluded their evidence on 15.10.2019. When the case was at the stage of leading rebuttal evidence and arguments, plaintiff/ respondent No.1 in order to turn the clock back to the stage of plaintiff's evidence and after knowing the case of defendants, has filed the application (Annexure P-9) for leading

additional evidence on 14.02.2020, which has only been filed to fill up lacunae in the case of plaintiff/respondent No.1. Learned counsel further argues that learned trial Court wrongly allowed the plaintiff/respondent No.1 to lead evidence in rebuttal on an issue for which burden of proof was upon him. To bring home his viewpoint, learned counsel for petitioners has placed reliance upon **Surjit Singh and others Versus Jagtar Singh and others, 2007 (1) RCR (Civil) 537; Jagdev Singh and others Versus Darshan Singh and others, AIR 2007 P&H 118; M/s. Satyam Steel Vs. Sarla and another, 2017 (1) RCR (Civil) 902; Tejinder Kaur Vs. Kishan Singh and others, 2008 (1) RCR (Civil) 485 and M/s. Lal Chand Ram Kishan Versus Rajesh Thakur, 2005 (14) RCR (Civil) 176.**

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

4. Order assailed herein is, *inter alia*, premised on the following reasoning:

“xxx xxx xxx
4.Perusal of the plaint filed by the plaintiff is to the effect whereby in para no.6, the plaintiff has mentioned the fact regarding application for correction of Khasra Girdawari by his impleadment as proforma defendant before AC-II grade. Therefore, this factum was undoubtedly in the knowledge of the plaintiff. The defendants have also on their part replied to this assertion of the plaintiff wherein also the application for correction of khasra girdawari has been admitted. Therefore, it is clear that though the matter was well within the knowledge of the plaintiff, he did not lead evidence to the effect at the opportune time and has now approached the court to lead the same by way of additional evidence.

Learned counsel for the defendants opposed the same on this ground that evidence was well within the knowledge of the plaintiff and to allow this evidence to be led at this

stage would amount to filling up of lacunae by adducing evidence. But at the same time, the additional evidence which the plaintiff wants to lead is not an evidence which is coming from a private source rather, it is an official record and the plaintiffs on his part has located the evidence and is praying that this official record be made part of the file. Since he has obtained certain copies of the record, the need to examine the clerk qua the same is not needed. Thus, there would be no delay in the proceedings of the trial if this record is included.

Since this record finds mention in the averments of the plaint as well as in the written statement it becomes important for the court to look into the record in order to arrive at a just decision. This evidence is of a nature which satisfies the court that the same is needed for effective adjudication of the case. This is not an evidence which is being led to contradict evidence of the defendant rather the evidence was in the knowledge of both the parties and is only being led at a later stage but since it is material in nature and the plaintiff has also on his part attached order of AC-II Grade as Mark-A and Mark-B at the time of leading his evidence since the original was not available with him at the opportune time. Therefore, the bonafide of the plaintiff is not under scanner but on his part has made efforts to bring the evidence at the opportune time.

The documents which are being produced by way of additional evidence, are certified copies and providing an opportunity to lead this evidence would help in adjudicating the matter between the parties in a better way and always in the interest of justice to give each party a chance to bring the best evidence before the court. By perusal of the plaint as well as written statement, the relevancy of the material is prima facie proved and the procedural law should not be allowed to harass the plaintiff by disallowing the inclusion of this evidence. The defendant would also not be adversely effected since the record is purely official in nature and the record was the knowledge of defendant also. Since no witness is being examined inclusion of the record would not delay the proceeding and the documents can be included for they are perse admissible in nature.”

5. A perusal of above leaves no manner of doubt that the contentions raised herein had also been raised before learned trial Court which rejected them by giving cogent and convincing reasons. I am inclined to agree with the same. There seems no irregularity in law, so

as to exercise extraordinary revisional jurisdiction vested with this Court. The authorities relied upon by learned counsel for petitioners are of little or of no assistance to him, since the same are distinguishable on facts.

- 5. There is no room for interference in the aforesaid valid reasons recorded by the trial Court, with which I am in agreement.
- 6. Dismissed.
- 7. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

18.01.2023
vandana

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