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

CR-2202-2023 (O&amp;M)

Date of decision: April 17, 2023

Amarjit Singh

....Petitioner

versus

Darshan Singh and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE ARUN MONGA****Present:-** Mr. Ravish Bansal, Advocate for Petitioner.

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**ARUN MONGA, J. (ORAL)**

Present revision petition is to set aside impugned order dated 20.03.2023(Annexure P-6) passed by learned Civil Judge (Junior Division), Moga, whereby application filed by plaintiff-petitioner for permission to lead additional evidence, was dismissed.

2. Learned counsel for petitioner/plaintiff would contend that plaintiff and his sister proforma-respondent No.6 filed Civil Suit dated 15.05.2018 (Annexure P-1) *inter alia* seeking declaration that they along with defendant-respondent No.1 are owners in possession of 1/3<sup>rd</sup> share each, in suit properties being natural heirs/ successors of their father. Plaintiffs filed an application for permission to lead additional evidence to produce certified copies of mutations No.74622 and 50214 which could not be produced at earlier stage being untraceable at home. He would further contend that vide impugned order dated 20.03.2023 (Annexure P-6), aforesaid application was dismissed by learned trial Court.

3. Given the nature of order being passed, there is no necessity to issue notice to respondent/defendants, as no serious prejudice would be caused to them.

Notice to respondents is thus dispensed with.

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4. I have heard learned counsel for petitioner and perused the case file.

5. I am of the view that since delay in trial which seems to have weighed in the mind of Court below is more detrimental to plaintiffs themselves as it is their trial which will get delayed in case, they are allowed to adduce proposed additional evidence. Considering this factor coupled with the fact that what is sought to be produced on record are certified copies of revenue record, learned trial Court ought to have allowed the same.

6. Rules of procedure are handmaid of justice. They cannot be allowed to thwart real and substantial justice between the parties. The valuable right of litigants to establish their cases by adducing evidence ought not to be taken away by the Court except in a case of their deliberate omission/failure to produce evidence more so if the other side can be compensated by costs. Prejudice would indeed be caused to Petitioner herein, unless afforded an opportunity to adduce evidence. Trial in declaration suit may lead to unjust consequences in the absence of an opportunity to the Petitioner to lead evidence.

7. In the premise, impugned order passed by the Court below is modified to the extent that subject to payment of costs of Rs.5,000/-to the defendants/respondents No.1 to 5, plaintiffs are being given one opportunity to adduce additional evidence, subject of-course to discretion of learned Court below to further grant opportunity, in case it so desires depending upon exigencies of work before it. Learned counsel for petitioner claims that said documents being certified copies of revenue record are *per se* admissible and can be exhibited through learned Counsel representing plaintiff. However, in case, respondent-defendants contemplate to oppose *per se* admissibility of the documents, needless to say that the trial Court shall appropriately deal with the objection of defendants and documents shall thereafter, be exhibited in accordance with law.

8. Disposed of, accordingly.

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9. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)  
JUDGE

April 17, 2023  
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No