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

CR-2778-2023 (O&M)

Date of Decision: 04.05.2023

Smt. Kamla Devi

....Petitioner

Versus

Anil Kumar and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Amit Kumar Jain, Advocate
for the petitioner.

ARUN MONGA, J. (ORAL)

Petition herein is for setting aside order dated 05.04.2023 passed by Ld. Civil Judge (Jr. Divn.), Safidon, whereby the application filed by petitioner/plaintiff No.3 for leading additional evidence, was dismissed.

2. Succinct facts first, as pleaded in the instant petition.

2.1. Petitioner along with pro forma respondents filed a suit for declaration to the effect that they are joint owner in possession to the extent of 7/30 share out of 7/24 share entered in the name of Ram Sarup son Ami Chand of the land comprised in Khewat No.423, Khata No.665 and Khewat No.1213, Khata No.1632, as per Jamabandi for the year 2015-2016, situated in revenue estate of Village Muwana, Tehsil & District Jind and are entitled to get the same mutated in their favour in revenue record with consequential relief of permanent injunction restraining defendants No.1 to 4/respondents No.1 to 4 herein from dispossessing them from the joint possession of the suit land.

2.2. Upon notice, defendant/respondents appeared and took various preliminary objections regarding maintainability, cause of action, limitation, locus standi, suppression of material facts, valuation of suit property and that suit is bad for non-joinder of necessary parties.

2.3. After completion of evidence of defendants, when the suit was fixed for rebuttal evidence, present petitioner/plaintiff No.3 came to know that some documents, which were in Urdu language and could not be found at the time of leading evidence in affirmative by plaintiffs, were available in revenue record and as such petitioner moved application dated 14.03.2023 (Annexure P-1) for leading additional evidence to produce copy of jamabandi for the year 1954-55 along with Hindi translation thereof, mutation of inheritance of Ami Chand bearing No.1341 dated 21.07.1954, *Misal Hakiyat* i.e., jamabandi for the year 1959-60, consolidation record namely *Khatoni Pamaish*, *Naksha Hakdarwar*, *Naksha Gathwar*, *Khatoni Istemal* and certified copy of sale deed dated 08.11.1996.

2.4. Defendants in their written statement took preliminary objections that there is no provision under CPC for leading additional evidence and that no case is made out to lead additional evidence at this stage and that application is filed only to linger on the litigation. Ld. Trial Court dismissed the application vide impugned order.

3. Heard.

4. Considering the nature, facts and circumstances of the case, issuance of notice to respondent/plaintiffs seems unnecessary and is, therefore, dispensed with.

5. In course of hearing, it transpires that the additional evidence sought to be adduced is documentary in nature and are certified copies of the revenue

records pertaining to the suit property as well as one registered sale deed, which despite due diligence plaintiff No.3 (petitioner herein) could not produce earlier. On a Court query, learned counsel for petitioner would submit that certain delay was caused in obtaining certified copies and on getting the same, it turned out that a few of the documents were in Urdu and the same had to be translated for the benefit of first learned counsel to understand whether the same have any relevancy or not and therefore, delay was not deliberate and due to peculiar circumstances, beyond the control of petitioner.

6. In the totality of circumstances, the revision petition is allowed subject to payment of costs of Rs.10,000/- to be paid to respondents No.1 to 4. Impugned order is set aside.

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

(ARUN MONGA)
JUDGE

May 04, 2023
ashish

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