

In the High Court of Punjab and Haryana, at Chandigarh**Civil Revision No. 2331 of 2022****Date of Decision: 13.07.2023**

Bharpur Singh

... Petitioner(s)

Versus

Harbans Singh (Deceased) through his Legal Heirs and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. G.S.Punia, Senior Advocate
with Ms. Harveen Kaur, Advocate
for the petitioner(s).

Mr. Vaibhav Sehgal, Advocate
for the respondent No.1 to 6.

Anil Kshetarpal, J.

1. The petitioner herein is the defendant No.2 in a pending suit for grant of decree of joint possession as co-owners filed by the plaintiffs. In the first round, the suit was decreed. In the first appeal, an application under Order XLI Rule 27 of the Code of Civil Procedure, 1908 (hereinafter referred to as "the CPC") to adduce evidence was allowed and after setting aside the judgment of the trial Court, the First Appellate Court directed the trial Court to decide the case afresh. The trial Court has refused permission to the petitioner to produce copies of the jamabandies (the revenue record) in evidence on the ground that the order passed by the First Appellate Court only permits the production of Will and the examination of the attesting witness. It has been asserted by the petitioner that while examining the attesting witnesses, a certified copy of the revenue record was produced, however, it was not admitted in the evidence on account of the objection by the learned counsel representing the petitioner.

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2. The copies of the jamabandies carry presumption of correctness. These are *per se* admissible document. It is not in dispute that the First Appellate court, after setting aside the judgment of the trial court, directing the decision afresh. In such circumstances, the defendant has been provided with a liberty to lead evidence. During the course of evidence, the record maintained by the government (the revenue officials), which is *per se* admissible, is sought to be produced. Such document will help the Court in decision of the case. The trial court has construed the order passed by the First Appellate Court in a narrow manner. Once the First Appellate Court has directed deciding the case afresh, the defendant cannot be deprived of an opportunity to produce the official record which is *per se* admissible.

3. Keeping in view the aforesaid facts, the present revision petition is allowed and the impugned order passed on 19.04.2022 is set aside. The certified copies of the revenue record, which have already been produced, shall be admitted in the evidence.

4. At this stage, the learned counsel representing the petitioner submits that the copies of the jamabandies for the year 1973-74, 1975-76, 1978-79 and 2005-06 and also the revenue record pertaining to the property purchased by Sohan Singh in village Gangapur Umaria was not taken on the record. If those documents have not been taken on record, the same shall be permitted to be produced in evidence.

(Anil Kshetarpal)
Judge

July 13, 2023
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No