

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.134

Case No. : C. R. No. 5149 of 2023

Date of Decision : September 05, 2023

Dev Singh @ Gurdev Singh		Petitioner
vs.		
Ravinderjit Singh and others		Respondents

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

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Present : Mr. Vishal Sharma (Vasudeva), Advocate
for the petitioner.

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GURBIR SINGH, J. :

1. Challenge in this revision petition filed under Article 227 of the Constitution of India is to the order dated 08.08.2023 (Annexure P-6), passed by learned Civil Judge (Junior Division), Hoshiarpur (for brevity – the Trial Court), whereby application filed by the petitioner, for summoning the Sadar Kanungo along with the revenue record, has been dismissed. Further prayer for staying the proceedings before the learned Trial Court during the pendency of the instant revision petition has also been made.

2. Learned counsel for the petitioner has argued that the petitioner, along with proforma respondents no.8 to 10 (hereinafter called – the plaintiffs), filed a suit for declaration to the effect that the suit property in dispute is a joint Hindu family coparcenary property of the plaintiffs along with defendants no.1 to 3 and 5 to 7, being coparceners in the property mentioned in the suit and transfer deed dated 24.06.2011 in favour of

defendant no.1, gift deed dated 06.04.2015 in favour of defendant no.4 and Khangi Partition by late Shri Karam Singh are forged and fabricated documents and are result of fraud and misrepresentation. Accordingly, mutations sanctioned on the basis of aforesaid documents are also illegal, null and void. In the said suit, consequential relief of permanent injunction was also sought restraining the defendants no.1 and 4 from alienating the suit property more than their share in any manner or from dispossessing the plaintiffs from the joint possession over the suit property till the final partition, by metes and bounds.

3. Learned counsel for the petitioner has further contended that in the above said suit, the petitioner filed an application for summoning the Sadar Kanungo with the revenue record showing the ownership of the land, which has been inherited from Pal Singh son of Hari Singh up to Karam Singh along with record of consolidation and *jamabandi* prepared thereafter, in order to put the same to the witness Gurjeet Kaur (defendant no.4), who has already tendered her affidavit for recording examination-in-chief and has denied the nature of land being ancestral coparcenary property and joint Hindu family property. However, vide impugned order dated 08.08.2023, the said application was dismissed. The operative part of the impugned order is as under :-

“5. *The plaintiff has filed this present application for summoning the Sadar Kanungo along with the revenue record of the land situated in Village Sandhara Hadbast No. 169 Tehsil and District Hoshiarpur. However, plaintiff has failed to file the present application at very initial stage*

of the present case as per the requirements of Volume 1 Chapter 9 Rule 5(iv) of Punjab and Haryana High Court rules and orders. Further in the order dated 16.2.2023 it was specifically observed by this court that rule 3 of Chapter 9 volume 1 of Punjab and Haryana High Court rules and orders shows that “court must be on guard against using the Kanungo or Patwari for the purposes which he is not intended. Further vide said order it was also observed that plaintiff applicant has failed to file application in question even after availing 25 effective opportunities in order to conclude its evidence. Further more present application has again been filed by the plaintiff/ applicant at the stage of defence evidence, after the evidence of plaintiff was closed by order of this court vide ziminy order dated 30.4.2023 as per which plaintiff failed to conclude the evidence even after 30 effective opportunities. Further perusal of file shows that plaintiff/ applicant has failed to produced on record relevant record pertaining to alleged Murabandi and the revenue record pertaining to the ownership of Pal Singh as alleged by plaintiff-applicant in para No. 3 of is application. As such, by way of present application plaintiff/applicant is misusing the process of the court for collecting evidence in his favour in this case. As such, present application filed by plaintiff/ applicant stands dismissed being not maintainable at this stage. Now to come up on cross-examination of DW-1 Gurjeet Kaur for 18.8.2023.”

4.

The petitioner wants to get produced the revenue record to be

put to the witness (defendant no.4). The entries in the *jamabandi* are *per se* admissible in evidence. There is no need to put the entries of *jamabandi* to the witness. The petitioner has already led evidence in affirmative and as per the impugned order, the evidence was closed by court order dated 30.04.2023 as the petitioner failed to conclude the evidence even after 30 effective opportunities. On asking, learned counsel for the petitioner has failed to show as to how the revenue record to be put to the witness is necessary, when the same has not been proved while leading evidence in affirmative and when the entries in the revenue record are *per se* admissible in evidence. Since the record sought to be proved by Sadar Kanungo is not required to be put to the witness in evidence, so, I find no illegality in the impugned order. In fact, the plaintiff-petitioner wants to produce documents which could not be produced while leading evidence. It is not permissible in trial.

5. Accordingly, the present revision petition, being devoid of any merit, is hereby dismissed.
6. Pending applications, if any, shall stand disposed of along with this judgment.

September 05, 2023
monika

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.