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

CR-7855-2019 (O&M)

Date of Decision: 01.05.2023

Kulwinder Singh and another

....Petitioners

Versus

Gurbakhsh Singh @ Bhura and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Pankaj Bains, Advocate
for Mr. Ritesh Aggarwal, Advocate
for the petitioners.

Mr. Gaganinder Singh, Advocate
for Mr. Amrinder Vir Singh Barsat, Advocate
for the respondents.

ARUN MONGA, J. (ORAL)

Petition herein is for setting aside order dated 18.11.2019 (Annexure P-3) passed by Ld. Civil Judge (Jr. Divn.), Nabha, whereby the application for adducing additional evidence filed by petitioner/plaintiffs, was dismissed.

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

2.1. Petitioners had filed a civil suit on 04.11.2016 for permanent injunction restraining the respondents from dispossessing the plaintiff/petitioners and also causing any type of interference into peaceful possession of petitioners over agricultural land along with consequential relief against respondents for restraining them from illegally and forcibly uprooting one Palah Tree, one Pipal Tree, one Seesam Tree standing at the land of petitioners. Along with the suit, an

application under Order 39 Rules 1 & 2 CPC was also moved and Ld. Trial Court was pleased to grant interim injunction and the respondents were restrained from causing interference into peaceful possession of plaintiffs.

2.2. Above said order was in the knowledge of respondent/defendants as well as the police officials. But the respondents in connivance with each other caused interference into the peaceful possession of petitioners. On 22.12.2016, petitioners filed a petition under Order 39 Rule 2(A) CPC and under the provisions of Contempt of Courts Act for violation and disobedience of Court orders. Parties led their evidence in that context. Petitioners filed an application to lead additional evidence in the above said petition that police officials had made false report in connivance with the respondents on 05.11.2017, the fact that is very much necessary for proving the same.

2.3. Respondents filed a vague reply to the above said application and denied the facts of application. Ld. Trial Court dismissed the application of petitioners vide impugned order on the ground that application was filed only to fill lacunae in the present case.

3. Learned counsel appearing on behalf of petitioners would argue that in fact, petitioners want to unearth the whole fraud and conspiracy of tampered reports by leading additional evidence and the application was not filed to fill lacunae, as has been alleged by respondent/defendants.

4. Learned counsel appearing for respondent/defendants would oppose the revision while arguing that on perusal of documents to be adduced by petitioners, it cannot be adjudged that the same have been tampered. With regard to date, no forgery with that record has been committed.

5. Heard.

6. Given the assertion of petitioner/plaintiffs that they want to prove fraud by way of adducing additional evidence, I am of the view that application for leading additional evidence is very much relevant for proper adjudication of the case. Respondent/defendants can be compensated by costs for certain delay likely to be caused in adducing additional evidence by petitioner/plaintiffs.

7. Furthermore, I may also hasten to add here that Ld. Trial Court seems to have got rather over-swayed by the fact that matter was fixed for final arguments and that therefore, application for leading additional evidence would only fill up the lacunae and ought not to be allowed. I am also unable to accept the reasoning for rejection of the application that petitioners had ample opportunity to cross-examine RW2 ASI Inderjit Singh appeared as a witness to whom the petitioners could ask relevant questions with regard to the alleged tampering of documents. Hence, it cannot be suggested in the circumstances of the case that the application was filed belatedly to cover some lacunae earlier left by petitioner/plaintiffs.

8. In the totality of circumstances, the revision petition is allowed and impugned order is set aside subject to payment of costs of Rs.5,000/- to respondents.

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

(ARUN MONGA)
JUDGE

May 01, 2023
ashish

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