

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

Civil Revision No. 7055 of 2023(O&M)

Date of Decision: 23.11.2023

Bhalinder Singh

...Petitioner

Versus

Vimal Choudhary & Ors.

...Respondents

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. Atul Goyal, Advocate
for the petitioner.**

KARAMJIT SINGH, J.

1. The present revision petition has been filed by petitioner/defendant No.4 challenging the order dated 18.09.2023 (Annexure P-10) passed by the Court of Additional Civil Judge (Sr.Divn.), Samrala in a civil suit titled Vimal Choudhary Vs. Collector-cum-Deputy Commissioner and Ors., bearing CS-450/2015 whereby the request made by the petitioner to the trial Court during the cross-examination of DW.1 Vikas Sharma, Tehsildar Samrala for production of revenue record with regard to suit property for the period 1977-78 was declined without recording any reason for the same.

2. The brief facts of the case are that respondent No.1 Vimal Choudhary has filed suit for declaration with regard to land bearing *khasra* No. 721/1 situated in village Rupalon, Tehsil Samrala, District Ludhiana measuring 01B-10 *biswa* on the ground that the land measuring 02 *bigha* was purchased by him for valuable consideration from father of the petitioner vide registered sale deed dated 11.04.2007. That later on he came to know that total area of *khasra* No. 721/1 is just 01B-10 *biswa* and consequently civil suit has been filed. The same is contested by the

petitioner and other respondents. That after framing of issues, respondent No.1 has concluded his evidence and the suit is now fixed for evidence of remaining respondents who examined DW.1 Vikas Sharma, Tehsildar. During the cross-examination of said witness request was made on behalf of the counsel for the petitioner to call the revenue record of 1977-78 to clarify the ambiguity with regard to total area of *khasra* No. 721/1, but the said request was declined by the trial Court without assigning any reason. Being aggrieved, the petitioner has filed the present revision petition.

3. The counsel for the petitioner submits that DW.1 the concerned Tehsildar while appearing in the witness box stated that as per the official record the correct area of *khasra* No. 721/1 is 01B-10 *Biswa* but the said area was wrongly mentioned in *jamabandi* for the year 1992-93 and on 07.08.2023 when cross-examination of DW.1 was deferred, he made statement that he could produce the *jamabandi* for the year 1982-83 and also previous *jamabandi* for the year 1977-78 on the next date of hearing. Thereafter, on 18.09.2023 the witness failed to produce revenue record of year 1977-78 and when objection was raised to it, the same was over-ruled by the trial Court without giving any reason. So, prayer is made that the impugned order be set aside.

4. I have considered the submissions made by counsel for the petitioner.

5. From the above, it transpires that there is some ambiguity in the revenue record relating to suit property bearing *khasra* No. 721/1 specially with regard to its area. The trial Court should have asked DW.1 to produce the previous revenue record of year 1977-78 with regard to suit land as the scrutiny of the same is required for just decision of the suit. But the request made by the counsel for the petitioner seeking production of the said record

and mutation No. 2090 of 1982 was declined by the trial Court by way of non-speaking order which deserves to be set aside, in the interest of justice.

6. Consequently, without commenting on the merits of the case, the present revision petition is allowed and the impugned order is set aside with direction to DW.1 Vikas Sharma, Tehsildar to produce the concerned revenue record of year 1977-78 and mutation No. 2090 of 1982 by procuring the same from office of Deputy Commissioner, Ludhiana through the concerned Record Keeper of the said record and then to tender himself for his further cross-examination by petitioner, on the date to be fixed by the trial Court for the said purpose.

7. Keeping in view the nature of order being passed, no notice is required to be issued to the respondents. However, if they feel dis-satisfied with this order, they may move an application to recall the same.

(KARAMJIT SINGH)
JUDGE

23.11.2023
Jiten

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