

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-397-2024 (O&M)
Date of decision : 21.03.2024

Ram Kumar ... Petitioner(s)

Versus

Dinesh Kumar and Ors. ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Vivek Lamba, Advocate for the petitioner.

ALKA SARIN, J. (ORAL)

1. The present revision petition has been preferred challenging the order dated 02.12.2023 whereby the application filed by the plaintiff-petitioner for leading additional evidence has been dismissed.
2. Learned counsel for the plaintiff-petitioner would contend that the plaintiff-petitioner was suffering from lung infection and due to which he could not contact his counsel and hence was unable to lead his evidence. Thereafter, he changed his counsel on 07.11.2023 and then he was informed about the necessity of production of the documents and hence the Court has erred in dismissing the application for additional evidence.
3. I have heard the learned counsel for the plaintiff-petitioner.
4. In the present case it has been observed by the Trial Court while dismissing the application vide order dated 02.12.2023 that the suit for permanent injunction and possession was filed by the plaintiff-petitioner based on the jamabandi for the years 1984-85 as well as mutations No.1800 and 1988. Issues in the present case were framed vide order dated

CR-397-2024 (O&M)

25.07.2018 and thereafter time was granted from 11.12.2018 till 04.11.2022 for the plaintiff's evidence. However, he failed to lead necessary evidence and he got himself examined as PW3. Even then he failed to produce the documents he now seeks to produce as additional evidence. Further, opportunities were given from 29.09.2022 till 21.10.2022. Despite numerous opportunities having been taken, the evidence was not led. Thereafter, the application was filed for permission to lead additional evidence. Interestingly, some part of the documents now sought to be led as additional evidence are jamabandis for the year 1984-85 and mutation Nos.1800 and 1988 which were the basis for filing the suit. There is no explanation forthcoming as to why these documents were not led in evidence at the appropriate time. Further, the argument of the learned counsel that the plaintiff-petitioner was suffering from lung infection and hence he could not lead his evidence also deserves to be rejected as no document was placed on the record before the Trial Court to even remotely show that the plaintiff-petitioner was suffering from any illness. Even before this Court, the learned counsel for the plaintiff-petitioner has candidly admitted that there is no document to this effect.

5. In view of the above, I do not find any merit in the present petition and the same is accordingly dismissed. Pending applications, if any, also stand disposed off.

21.03.2024

Yogesh Sharma

(ALKA SARIN)**JUDGE**

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO