

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

133

**CR-603-2023
Date of decision: 19.04.2024**

NITA SHARMA ..Petitioner

Versus

AARTI SHARMA AND OTHERS ..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Nipun Vashist, Advocate
for the petitioner.

Mr. Gulshan Nandwani, Advocate
for respondents.

ANIL KSHETARPAL, J(Oral)

1. This revision petition has been filed by the plaintiff to assail the correctness of the trial Court's order dated 20.12.2022, while dismissing plaintiff's application for permission to lead additional evidence in order to produce copy of jamabandi for the year 1927-1928 and pedigree table of year 1929-1930 and 1993-1994.
2. Their suit for grant of decree of declaration with consequential relief is pending before the trial Court. The plaintiffs are alleging that the suit property is ancestral property. It has been asserted that the aforesaid documents were in Urdu language and despite efforts, person who knows Urdu could not be found, hence, the documents could not be produced. The trial Court has refused to grant permission on the ground that such evidence was required to be led in affirmative evidence.
3. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

4. On one hand, the learned counsel representing the petitioner contends that the trial Court has erred in dismissing the application, whereas, on the other hand, the learned counsel representing the respondents submits that the plaintiff failed to prove that despite due diligence, they could not produce the aforesaid documents in affirmative evidence.

5. This Court has considered the submissions of the learned counsel representing the parties.

6. The concept of leading additional evidence is not new. At one stage under Order XVIII Rule 17A of the Code of Civil Procedure, 1908, there was specific provision for permission to lead additional evidence, which has been deleted, however, the Court has inherent power to allow the party to lead additional evidence if the facts and circumstances of the case permit and the additional evidence sought to be produced is relevant for the decision of the case. Under Order XLI rule 27 of the Code of Civil Procedure, 1908, such application is maintainable even before the Appellate Court. Such application should have been allowed liberally if the evidence sought to be led is relevant and would result in helping the Court to adjudicate the case in a proper manner. The rules of procedure are handmaids of justice and not its mistress.

7. In this case, the plaintiffs while filing the application have specifically asserted that the relevant documents, though part of the public records were in Urdu language and the person who knows the Urdu language was not available despite their best efforts. The view formed by the trial Court is myopic. The approach of the Court while dealing with such

application should be pragmatic. It is expected that the Court should take a holistic view in the facts and circumstances of each case.

8. Keeping in view the aforesaid discussion, the revision petition is allowed. The impugned order dated 20.12.2022, is set aside.

9. The plaintiff shall be permitted to produce the documents in additional evidence.

10. The defendant shall have liberty to lead counter evidence to the additional evidence, which is sought to be produced by the plaintiff. Thereafter, Court will proceed to decide the matter.

11. All the pending miscellaneous applications, if any, are also disposed of.

April 19th, 2024

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(ANIL KSHETARPAL)
JUDGE

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