

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

122 CR-1472-2024 (O&M)
Date of decision: 07.03.2024

Rakesh Kumar ...Petitioner

Versus

Pawan Kumar and others ...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Rajan Bansal, Advocate, Legal Aid Counsel
for the petitioner.

VIKAS SURI, J. (Oral)

1. Challenge in the present petition is to order dated 02.02.2024, passed by Civil Judge (Jr. Divn.), Hisar whereby the application moved by the plaintiff-petitioner for striking off/removing/returning back document Ex.DA i.e. copy of plaint of civil suit No.22-C dated 12.02.2021, in case titled as *Parveen Kumar vs. Om Prakash and others*, has been dismissed.
2. The facts in brief are that the plaintiff-petitioner along with Parveen Kumar had filed a suit for partition by metes and bounds and delivery of possession of specific portion to the extent of 2/5th share of the plaintiffs in the suit property and consequential relief of injunction. An application filed by the plaintiffs to lead additional evidence was allowed by the trial Court vide order dated 18.11.2022. The plaintiffs examined PW-5 Aditya, who is stated to be the son of a marginal

witness of the family settlement recorded vide writing dated 28.09.1980 Ex.PX. Thereafter, the defendants in their evidence against the additional evidence brought on record by the plaintiffs, have tendered the document in question Ex.DA on 10.01.2023.

3. Learned counsel for the petitioner has contended that the aforesaid document is on account of rebuttal of the additional evidence and hence the same cannot be allowed to be retained on the case file. It is further submitted that defendant-respondents cannot be granted the advantage of leading any type of evidence, except for the limited right to give evidence in rebuttal of evidence led by the opposite party.

4. I have heard learned counsel for the petitioner and perused the record with his able assistance.

5. Undisputedly, the petitioner had brought on record additional evidence, which was permitted by the Court below vide order dated 18.11.2022. The defendants had a right to lead evidence in response thereto and the same cannot be construed as rebuttal evidence. It is noticed that document Ex.DA, in question, was tendered into evidence by the defendants and has been wrongly referred to as rebuttal evidence as such. Moreover, the trial Court has categorically opined that relevancy of the alleged document Ex.DA would be considered at the time of final decision of the suit and at this stage, the same cannot be returned, ignored or struck off from the file, as the same may be a necessary document for adjudicating the matter in dispute.

6. In view of the above discussion, this Court does not find any illegality or perversity in the impugned order that may warrant

interference by this Court. Accordingly, the present petition being bereft of merit, is dismissed.

March 07, 2023
sumit.k

(VIKAS SURI)
JUDGE

Whether speaking/reasoned :	Yes / No
Whether Reportable :	Yes / No