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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

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Date of decision: 13.05.2024

Darshana Devi

...Petitioner.

Versus

Sunita Devi and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. Parminder Singh, Advocate
for the petitioner.

Sukhvinder Kaur, J.

By way of present revision petition, the petitioner has challenged order dated 04.03.2024 (Annexure P6), passed by District Judge, Karnal, vide which application under Order 41 Rule 27 CPC for leading additional evidence, was allowed.

2. The brief facts relevant for adjudication of the present revision petition are that the plaintiff/ respondent No.1 filed a suit for possession with consequential relief of permanent injunction for possession of the Bara in dispute from the defendants. The petitioner alongwith proforma defendants on notice appeared and submitted that respondent No.1 had filed the collusive suit against defendants No.1 to 5 and that the plaintiff/ respondent No.1 had wrongly averred before the Court that she was in possession on the basis of sale deed No.106/1 dated 21.04.2014 against the

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collusive defendant of her choice. The defendant/ petitioner submitted that they were owner in possession of the land in dispute. The trial Court vide judgment and decree dated 10.08.2018 had dismissed the said civil suit No.183 of 2014. The trial Court considered the entire matter and returned the finding that respondent No.1 was never in possession of the suit land and neither Sunil Kumar was entitled to get the land transferred in the name of respondent No.1. Respondent No.1 preferred the appeal and the same is pending adjudication before the First Appellate Court, Karnal. After one year of the pendency of the appeal respondent No.1 moved application under Order 41 Rule 27 CPC for leading additional evidence alleging that copies of mutation, jamabandi and judgment and decree are necessary to be brought on record and he came to know regarding the above said document only in second week of May, 2019 when respondent No.1 inspected the revenue record. The petitioner filed reply to the said application by taking objections that the said documents were within the knowledge of respondent No.1, since from the very beginning. The Appellate Court vide impugned order dated 04.03.2024 allowed the said application for leading the additional evidence. Hence, the petitioner has knocked the doors of this Court by way of filing the present revision petition.

3. Learned counsel for the revision petitioner has contended that the trial Court has failed to analyse that there is no requirement of these documents for the adjudication of the appeal and allowing of this application, will amount to denovo trial. He has further contended that these documents were already within the knowledge of respondent No.1 as some

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of these documents had already been produced on record and the additional evidence has been wrongly allowed.

4. I have heard learned counsel for the petitioner and have gone through the relevant record.

5. By way of proposed amendment, the petitioner wants to produce on record certified copies of jamabandis, the other documents i.e. copy of mutation No.2233 sanctioned on 26.10.1973 by Assistant Collector 2nd Grade. Hindi translation of the said mutation, copy of judgment and decree sheet dated 21.03.1973 passed by learned Sub Judge, Panipat in Civil Suit No.74 of 1973 titled as *Mahinder Singh Vs. Mangal Singh*, copy of jamabandi for the year 1972-73, 1977-78, regarding the suit land situated invillage Gagsina, Tehsil Gharaunda, District Karnal. All these documents are authenticated and perse admissible documents. The jamabandi for the year 1972-73, which has earlier been produced on record was a photocopy and now the petitioner wants to produce on record the certified copy of the same. As all these documents are perse admissible documents, so the allowing of the application for additional evidence is not likely to cause any delay as any further evidence regarding the same would not be required. Moreover, these documents are also essential for effectively adjudicating the controversy between the parties.

6. Thus, there is no illegality or infirmity in the impugned order and no interference therewith is called for while exercising the revisional jurisdiction. The present revision petition being bereft of any merits stands dismissed.

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7. All pending applications, if any, also stand disposed of accordingly.

(SUKHVINDER KAUR)
JUDGE

13.05.2024.
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Whether speaking/ reasoned : Yes/ No
Whether Reportable : Yes/ No