

CR-2795-2024 (O&M) -1-

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

133

CR-2795-2024 (O&M)
Date of decision:07.05.2024

Sarabjit Singh

... Petitioner

Vs.

Karamjit Singh Grewal & others

... Respondents

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR.

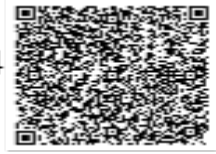
Present: Mr. B.R. Mahajan, Sr. Advocate with
Mr. Prateek Mahajan, Advocate,
Mr. Mayank Vashishth, Advocate and
Ms. Nikita Goel, Advocate for the petitioner.

...

SUKHVINDER KAUR, J.

1. The instant revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 12.04.2024 (Annexure P-1) passed by the Civil Judge (Jr. Division), Ludhiana, whereby application filed by the petitioner for additional evidence has been dismissed.

2. The relevant facts for adjudicating the present *lis* are that the plaintiff/respondent filed a suit for declaration to the effect that plaintiff along with defendants are the owners in possession of the properties as detailed in the head note of the plaint on the basis of natural inheritance and for declaration that mutation No.7170 dated 20.05.2013, Mutation No.3594 dated 18.07.2013 and mutation No.3597 dated 11.07.2013 regarding the land situated in village Gajianna, Tehsil Nihal Singh Wala, District Moga on the basis of alleged Will dated 16.04.2010 are illegal, null and void with



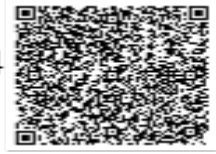
consequential relief of joint possession and permanent injunction regarding alienation was also sought.

3. Said suit was contested by defendant No.1/revision petitioner , who filed the written statement alleging that father of plaintiff as well as defendant No.1 Rajwant Singh had transferred 82 kanals 9 marlas of land situated in Village Kamaspur, Tehsil Samana, District Patiala in favour of plaintiff through consent decree dated 30.10.1985. It was also alleged that his father had also executed registered Will dated 16.04.2010 bequeathing his entire estate in favour of defendant No.1/petitioner, which was duly registered with the Sub Registrar, Patiala vide Wasika No.51 Bahi No.3 for the services rendered by him to his father.

4. On the basis of the pleadings of the parties, issues were framed. Thereafter, the parties led the evidence in support of their case.

5. When the case was fixed for rebuttal evidence of plaintiff/respondent No.1 then on 13.03.2024, defendant No.1/petitioner filed an application for additional evidence stating that due to inadvertence, the scribe of the Will and Record Keeper of the office of the Sub Registrar, Patiala were not produced, though the certified copy of the Will had been duly proved. Reply to such application was filed by plaintiff/respondent No.1 and it was opposed by alleging that it had been filed just to delay the proceedings of the case and defendant No.1/petitioner had already been provided ample opportunity for leading his evidence.

6. Thereafter, the impugned order dated 12.04.2024 was passed by the Civil Judge (Junior Division), Ludhiana, while dismissing the aforesaid

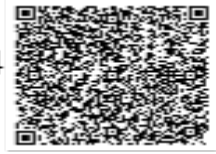


application filed by the petitioner/defendant No.1 by holding that there was no provision under CPC for allowing additional evidence and also stating that due opportunities had already been granted to defendant No.1 for concluding his evidence. Aggrieved against the said order, the revision petitioner has knocked the doors of this Court by way of filing the present revision petition.

7. Learned counsel for the petitioner has contended that even though there is no provision in CPC for allowing the additional evidence but in case the evidence is essential for just and proper decision of the matter, the same can be allowed at any stage. While relying upon **Gurbaj Singh Vs. Shameer Singh & others, 2017 (1) PLR 632** and **Manmohan Singh Vs. Davinder Kaur @ Mohinder Kaur @ Gurminder Kaur & others, 2015 (5) RCR (Civil) 661**, he has contended that there is no bar qua leading of the additional evidence at any stage, even if the stage is of conclusion of the arguments.

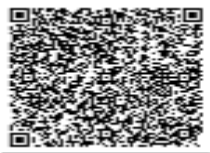
8. I have heard learned counsel for the petitioner at length and have gone through the record.

9. In the instant case, the defendant wants to produce in additional evidence the scribe of Will dated 16.04.2010 and Record Keeper of the office of the Sub Registrar, Patiala along with Will Wasika No.51 Bahi No.3 dated 16.04.2010. In **Gurbaj Singh's case (supra)**, it has been held that *“There can be no hard and fast rule that the additional evidence cannot be permitted in any eventuality after the closing of the evidence by the defendant and at the stage of rebuttal evidence. If the additional evidence*



*sought to be adduced is essential for the just decision of the case, said additional evidence can be permitted by exercising the powers under Section 151 of the Code of Civil Procedure, 1908, at any stage of the suit.” In other plethora of judgments also, it has been held that in case the evidence is essential for just and proper decision of the matter, the same can be allowed at any stage. In **Raju Sharma Vs. Pardeep Kumar, 1999 (1) PLR 612**, it has been held by this Court that “Once last opportunity is granted, the concerned party is under obligation to produce its entire evidence on the subsequent date but wherever the interest of justice demands the production of material evidence for effective determination of the subject matter of the suit, the grant of another opportunity would meet the ends of the justice.”*

The Apex Court had held in **K.K. Valusamy Vs. N. Palanisamy, 2011 AIR SC (Civil) 1000**, that “The amended provisions of the Code contemplate and expect a trial court to hear the arguments immediately after the completion of evidence and then proceed to judgment. Therefore, it was unnecessary to have an express provision for re-opening the evidence to examine a fresh witness or for recalling any witness for further examination. But if there is a time gap between the completion of evidence and hearing of the arguments, for whatsoever reason, and if in that interregnum, a party comes across some evidence which he could not lay his hands earlier, or some evidence in regard to the conduct or action of the other party comes into existence, the court may in exercise of its inherent power under Section 151 of the Code, permit the production of such evidence if it is relevant and necessary in the interest of justice, subject to such terms as the court may



CR-2795-2024 (O&M) -5-

deem fit to impose. ”

10. In the instant case also, the proposed additional evidence to be adduced by the plaintiff is essential for effectively adjudicating the matter in controversy. Otherwise also, the production of the said additional evidence will not cause any prejudice to the plaintiff as he will also get the opportunity to rebut the additional evidence so adduced by the petitioner.

11. So, it will be appropriate if one effective opportunity is given to the petitioner to adduce the additional evidence. The other party can be well compensated with the costs.

12. Keeping in view the above, one effective opportunity is granted to the petitioner to adduce his entire additional evidence at his own responsibility, subject to payment of costs of Rs.15,000/- to be paid to the respondents.

13. Hence the present revision petition is allowed and the impugned order dated 12.04.2024 is set aside.

14. Pending application(s), if any, shall also stand disposed of.

07.05.2024
harjeet

(SUKHVINDER KAUR)
JUDGE

1.Whether speaking/reasoned?	Yes/No
2.Whether reportable?	Yes/No