

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 5383 of 2023

Date of Decision: 12.03.2024

Rukmani
... Petitioner(s)

Versus

General Public and Others
... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Ms. Vini Mahajan, Advocate
for Mr. Nipun Vashisht, Advocate
for the petitioner(s).

Anil Kshetarpal, J.

1. In this revision petition, the petitioner challenges the correctness of the Trial Court's order while dismissing the petitioner's application for permission to lead additional evidence.
2. The petitioner along with his mother Smt.Shanti Devi filed a suit for the grant of decree of declaration that they are owners in possession of the land measuring 10 kanals and 1 marla out of the joint land measuring 40 kanals and 6 marlas. They claim that it is their ancestral coparcenary property and they are the owners in possession thereof. During the pendency of the case, the petitioner has filed an application for permission to lead additional evidence in order to produce a copy of jamabandi for the year 1927-28, pedigree of the family prepared in the year 1929-30 and jamabandi for the year 1993-94. The Trial Court has dismissed the application on the ground that the plaintiff has already availed 11 effective opportunities to lead affirmative evidence. It has also been observed that the record sought to be produced is a part of public record and the plaintiff cannot claim that she has no knowledge of the same.
3. The respondents, despite receipt of notices, have not entered appearance. This suit has been filed by Smt.Rukmani, daughter and

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Smt.Shanti Devi, widow of Sh. Bhika Ram alias Bhiku. The first defendant is the general public, whereas defendant No. 2 is Ram Mehar son of late Sh.Bhika Ram alias Bhiku. These two ladies are claiming the property on the ground that Mange Ram son of late Sh. Bhika Ram alias Bhiku was the owner in possession, who died on 28.11.2016. The authenticity of the documents sought to be produced in additional evidence is not doubtful. It is a part of the public record. These documents are *per se* admissible in evidence. In these circumstances, the Trial Court, while dismissing the application, has erred in taking a myopic view. The approach of the Court while deciding such applications should be pragmatic. The Courts are required to take a holistic view of the matter. The Courts have been set up to advance the cause of justice while trying to follow the procedure prescribed in the Code of Civil Procedure, 1908. The rules of procedure are the handmaids of justice and the rules cannot be used to defeat justice.

4. Keeping in view the aforesaid discussion, the present revision petition is allowed. The impugned order is set aside. The plaintiffs are permitted to produce the documents.

(Anil Kshetarpal)
Judge

March 12, 2024

“DK”

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No