



110

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

CR-7560-2019 (O&M)

Date of Decision : 23.07.2024

Ballo Devi

... Petitioner(s)

Versus

Krishna Devi

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

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

Mr. Sumit Gupta, Advocate for the respondent.

ALKA SARIN, J. (Oral)

1. The present revision petition appeal has been preferred under Article 226 of the Constitution of India impugning the order dated 14.11.2019 whereby the application under Order 14 Rule 5 of the Code of Civil Procedure, 1908 (CPC) praying for framing of additional issues under Order 14 Rule 1 CPC has been dismissed.

2. Learned counsel for the defendant-petitioner would contend that based on the pleadings of the parties, additional issues were required to be framed. It is further the contention of the learned counsel that though the application had been moved at the stage of rebuttal and arguments, however, no further evidence would be required to be led by the defendant-petitioner herein and that all requisite evidence is already on the record. The learned counsel would further contend that the defendant-petitioner would be satisfied if the proposed issue Nos.ii and iii are framed and that the onus of both the issues would be cast upon the defendant-petitioner herein.

Although inadvertently in the application for framing of additional issues, the onus of issue No.ii has been cast upon the plaintiff-respondent.

3. *Per contra*, the learned counsel for the plaintiff-respondent has contended that the present application was moved at a belated stage and that after 28.11.2019 i.e. when the case was fixed for rebuttal evidence and arguments, 18 further opportunities have been granted to the parties. The learned counsel would further contend that since the onus of the proposed issue Nos.ii and iii, if framed, is on the defendant-petitioner and she does not wish to lead evidence, however, the plaintiff-respondent should be permitted to lead evidence in rebuttal if any.

4. I have heard both the counsel. From the pleadings of the parties certain other issues would arise though not framed in the present case. Issue Nos.ii and iii are hence framed as under :

ii. Whether the possession entry/khasra girdawari entry of the suit land standing in the name of the defendant prior to 30.04.2017 is wrong and liable to be set aside ?

OPD

iii. Whether the suit of the plaintiff is barred under Sections 11 and 12 CPC on the principles of res judicata?

OPD

The defendant-petitioner, as stated by the learned counsel, would not be leading any further evidence on the said issues. Since the onus of both the issues has been cast upon the defendant-petitioner, the plaintiff-respondent, if she so wishes, is permitted to lead her evidence in rebuttal qua these two issues.

5. The present revision petition is disposed off accordingly.

Pending applications, if any, also stand disposed off.

23.07.2024

Yogesh Sharma

(ALKA SARIN)

JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO