



281-2

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

CR-398-2021 (O&M)

Date of Decision : 21.08.2025

Shiv Kumar

... Petitioner(s)

Versus

Sanjay Kumar

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Ajay Jain, Advocate for the petitioner.

Mr. Navmohit Singh, Advocate for the respondent.

ALKA SARIN, J. (Oral)

1. The present revision petition has been filed challenging the order dated 04.02.2021 (Annexure P-3) whereby the application filed by the plaintiff-petitioner for leading additional evidence has been dismissed.

2. Brief facts relevant to the present *lis* are that the plaintiff-petitioner herein filed a suit for specific performance of the agreement to sell dated 13.05.2006. The evidence of the plaintiff-petitioner was closed on 25.07.2019. Though two opportunities had been availed by the defendant-respondent to lead his evidence, however, no evidence had been led and the present application was filed by the plaintiff-petitioner for additional evidence. Reply was filed to the said application and vide the impugned order dated 04.02.2021 the application was dismissed. Hence, the present revision petition.

3. Learned counsel for the petitioner would contend that the said

application is only to bring on record the factum of possession and the report prepared by the revenue official in that respect. Learned counsel would further contend that given one opportunity, he would produce the said official to prove the report in accordance with law.

4. *Per contra*, learned counsel for the defendant-respondent would contend that the application itself has been filed after a long delay. The plaintiff-petitioner had taken numerous opportunities to lead his evidence however, he miserably failed to lead any evidence with regard to his possession. It is further the contention of the learned counsel that in the present case the right of the defendant-respondent would be defeated inasmuch as all the entries are in his favour. It is further the contention of the learned counsel that the report has been prepared without any notice to the defendant-respondent and therefore it cannot be accepted in evidence.

5. I have heard the learned counsel for the parties.

6. In the present case the application for additional evidence has been filed before the evidence of the defendant-respondent had commenced. The argument of the learned counsel for the defendant-respondent that his right would stand defeated if the application is allowed cannot be accepted inasmuch as the defendant-respondent is yet to lead his evidence and would have an opportunity to prove his possession over the suit property. The argument of the learned counsel for the defendant-respondent that since the report has been prepared behind the back of the defendant-respondent and therefore it should not be taken into evidence also deserves to be rejected as the defendant-respondent would have a right to cross-examine the said witness as also to lead evidence in respect to his stand in the written statement. In any case at the time of allowing additional evidence, the evidentiary value

of the evidence is not to be gone into.

7. In view of the above, this Court deems it appropriate to allow the present application for additional evidence. However, keeping in view the fact that despite numerous opportunities the plaintiff-petitioner did not lead his evidence earlier with regard to possession, the present revision petition is allowed subject to payment of ₹30,000/- as costs to be paid to the defendant-respondent, which shall be a condition precedent. It is made clear that the evidentiary value of the document would be gone into by the Trial Court at the time of deciding the suit finally.

8. Disposed off accordingly. Pending applications, if any, also stand disposed off.

9. It is made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

21.08.2025
Yogesh Sharma

(ALKA SARIN)
JUDGE

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