

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****133****CR-1794-2025 (O&M)****Date of decision: 24.03.2025****Ram Kumar (since deceased) through his LRs****...Petitioner(s)****Vs.****Ghisa Ram and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Sandeep Kumar Yadav, Advocate with
Ms. Sangeeta Yadav, Advocate for the petitioner.

NIDHI GUPTA, J.

The present civil revision petition under Article 227 of the Constitution of India, has been filed by the plaintiff against the order dated 4.3.2025 passed by learned Additional Civil Judge (Senior Division), Mohindergarh; whereby the application filed by the petitioner for leading additional evidence, has been declined.

2. Learned counsel for the petitioner vehemently submits that the application of the petitioner has been wrongly rejected as the documents sought to be produced by the petitioner as additional evidence are necessary for the proper adjudication of the matter. It is submitted that the petitioner has clearly pleaded the facts in respect of the said documents in his plaint (Annexure P1). However, the said documents could not be tendered into evidence due to the inadvertent mistake of the previous counsel representing the petitioner before the learned trial Court; and the petitioner cannot be made to suffer for the same. Ld. counsel for



the petitioner further refers to the judgment passed by the Hon'ble Supreme Court in ***K.K. Velusamy vs. N. Palanisamy, Law Finder Doc Id # 252620*** wherein it has been held that Court can permit fresh evidence if evidence was relevant to render justice and its non-production earlier was for valid reasons. It is accordingly prayed that the impugned order be set aside.

3. Heard.

4. Brief facts of the case are that the petitioner along with performa respondents No. 6 to 11 herein had filed a suit on 26.12.2016 for declaration (Annexure P-1) to the effect that the plaintiffs are coming into owner in possession of the agricultural land as described in the head note of the plaint. The admitted facts on record are that in the said suit written statement was filed by the respondents on 05.04.2017; and issues were framed on 05.05.2017; the plaintiff's evidence was closed by Court order on 21.12.2017 on account of failure of the plaintiff to conclude evidence; and, thereafter, even the defendants' evidence was concluded on 31.10.2022; and the case was fixed for rebuttal evidence, if any, otherwise for arguments; whereafter the present application for leading additional evidence has been filed by the petitioner on 29.01.2025 (Annexure P-2).

5. The only reason cited by the petitioner for not tendering the said documents in evidence is the alleged inadvertent mistake on account of counsel representing the petitioner. I find no merit in the said argument as admittedly the said documents were in the knowledge of the petitioner and have also been mentioned in the plaint. It has been stated by the



petitioner that the said mistake came to the knowledge of the petitioner while inspecting the case file. However, even the said argument does not inspire belief as, admittedly, the earlier counsel was representing the petitioner before the learned trial Court for the past about 7 years. It has also been submitted that the petitioner cannot be made to suffer on account of mistake of his counsel. However, it is equally true and established legal tenet that the plaintiff is a master of his own case. As such, petitioner can derive no benefit from the relied upon judgment in ***K.K. Velusamy's case (supra)***, as the Hon'ble Supreme Court has held that Court can permit fresh evidence "if its non-production earlier was for valid reasons". However, the present appears to be a case of sheer carelessness.

6. Thus, it is only at the stage of the rebuttal evidence and arguments that the petitioner had filed the present application for leading additional evidence. The present application, therefore, is completely time barred. It has also been recorded in the impugned order that after framing issues on 05.05.2017, several effective opportunities were given to the petitioner including last opportunity. Yet the petitioner did not produce the said documents and did not even conclude his evidence. It was for this reason that the petitioner's evidence was closed by Court order on 21.12.2017. As such, no justifiable ground is made out to permit the petitioner to lead additional evidence at this stage. It is the duty of this Court to ensure justice to both the parties. Considering the fact that the trial is nearing conclusion it would amount to *denovo* trial in case the present petition is allowed.



- 7. Hence, the present civil revision petition is **dismissed**.
- 8. Pending application, if any, stands disposed of.

24.03.2025

Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No