

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****141****CR-2462-2025 (O&M)****Date of Decision : 24.04.2025**

Jaik Ram

....Petitioner

VERSUS

Ajmer Singh and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Vaneet Thakur, Advocate for the petitioner.

ALKA SARIN, J. (Oral)

1. Present revision petition has been filed under Article 227 of the Constitution of India challenging the order dated 21.03.2025 (Annexure P-9) whereby the application filed by the plaintiff-petitioner for additional evidence has been dismissed.

2. The brief facts relevant to the present *lis* are that the plaintiff-petitioner filed a suit for declaration challenging the decree dated 22.09.2005 being a nullity and having been obtained by the defendant-respondents by playing fraud with the Court and not binding on the plaintiff-petitioner as also for declaring mutation No.2541 based on the alleged decree to being null and void. The prayer in the suit was also for permanent injunction for restraining the defendant-respondents from interfering in the peaceful possession of the plaintiff-petitioner in Khasra No.63//32 and other Khasra numbers mentioned in the judgment and decree under challenge.

3. Written statement was filed by defendant-respondent Nos.1 to 5 and 7 raising various preliminary objections. Replication was also filed. Thereafter, the Trial Court vide order dated 01.12.2022 framed the following issues :

1. Whether plaintiff is entitled for the relief of Declaration as prayed for ? OPP
2. Whether plaintiff is entitled for the relief of Permanent Injunction as prayed for ? OPP
3. Whether the suit is not maintainable in present form ?
OPD
4. Whether suit is bad for non-joining of necessary parties ?
OPD
5. Whether plaintiff has not come to the Court with clean hands and have suppressed the material facts from the Court ? OPD
6. Whether plaintiff has no locus standi and cause of action to file the present suit ? OPD
7. Whether suit of plaintiff is barred by law of limitation ?
OPD
8. Whether plaintiff is estopped by his act and conduct to challenge the judgment and decree ? OPD
9. Relief.

4. The plaintiff-petitioner led his evidence and thereafter evidence was led by the defendant-respondents. At the stage of rebuttal and

arguments, an application was filed by the plaintiff-petitioner for producing a jamabandi and a judgment in additional evidence. Reply was filed to the said application. Vide the impugned order dated 21.03.2025 the said application has been dismissed. Aggrieved by the same, the present revision petition has been filed by the plaintiff-petitioner.

5. Learned counsel for the plaintiff-petitioner would contend that since the defendant-respondent No.1 did not step into the witness-box for his cross-examination after filing his affidavit in examination-in-chief and also did not lead any evidence except for tendering one judgment, therefore, it was necessary for the plaintiff-petitioner to lead evidence by producing “*a jamabandi and a judgment and a photocopy of the file upon which the judgment was obtained by the plaintiff-petitioner in decree-sheet titled Jaik Ram vs. Soma Devi*”.

6. Heard.

7. On a query by the Court as to the purpose of the documents which are now sought to be produced, learned counsel for the plaintiff-petitioner has stated that the jamabandi sought to be produced is to prove the possession of the plaintiff-petitioner. The judgment passed in Civil Suit No.RT-174 dated 15.04.2006 decided on 22.09.2014 is based upon a compromise between the parties which needs to be brought on the record and the photocopies of the file are the pleadings which pertained to the judgment passed on the basis of the compromise. On a further query by the Court as to whether the said judgment has been referred or mentioned in the pleadings/plaint, learned counsel for the plaintiff-petitioner has candidly

admitted that there is no reference to this judgment passed on the basis of a compromise in the pleadings.

8. Infact what the plaintiff-petitioner is seeking to do is to set up entirely a new case by way of leading additional evidence qua which there are no pleadings. The jamabandi, which is now sought to be produced to show the possession of the plaintiff-petitioner, was to be produced in the affirmative as the onus of issue No.2 which was “*Whether plaintiff is entitled for the relief of Permanent Injunction as prayed for ? OPP*” was also cast upon the plaintiff-petitioner. Having not led the evidence in the affirmative, the plaintiff-petitioner cannot now be permitted to fill in the lacuna in the case by leading the said evidence as additional evidence. The judgment sought to be produced in Civil Suit No.RT-174 dated 15.04.2006 decided on 22.09.2014, alleged to be based on a compromise, finds no mention in the pleadings as candidly admitted by learned counsel for the plaintiff-petitioner himself. Therefore, the question of permitting the judgment to be produced as additional evidence qua which there are no pleadings would not arise. Further still, the application (Annexure P-7) itself is totally bereft as to why the said evidence was not led earlier. There is not even a whisper that the plaintiff-petitioner was not aware of this evidence at the time of leading his evidence in the affirmative. It is not possible that the jamabandi depicting the possession of the plaintiff-petitioner was not within the knowledge of the plaintiff-petitioner at the time of leading his evidence in the affirmative. Further still, the judgment which is sought to be produced in Civil Suit No.RT-174 dated 15.04.2006, which as per the arguments

raised by learned counsel for the petitioner was based on a compromise, would not be a judgment which was not within the knowledge of the plaintiff-petitioner. In view thereof, no fault can be found with the impugned order dated 21.03.2025 passed by the Trial Court.

9. In view of the above, the present revision petition being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

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

24.04.2025
jk

(ALKA SARIN)
JUDGE

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