



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

CWP-18769-2025 (O&M)
Date of decision :09.07.2025

VIJAY PAL

...Petitioner

Versus

DRO-CUM-COLLECTOR, HISAR, HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Tanmoy Gupta, Advocate
for the petitioner.

Mr. Rajneesh Chadwal, A.A.G., Haryana.

HARSH BUNGER, J. [ORAL]

Prayer in the present writ petition, filed under Article 226 of the Constitution of India, is for issuance of a writ in the nature of *certiorari*, for setting aside the impugned order dated 25.03.2025 (Annexure P-5) passed by the learned Collector, Hisar; whereby the application dated 15.09.2021 (Annexure P-3) filed by the petitioner for additional evidence has been dismissed.

2. Briefly, respondent No.2-Atma Ram filed a petition (Annexure P-1) for redemption of land measuring 32 *kanal-16 marlas* situated at Village Bhana, Tehsil Adampur, District Hisar, which was mortgaged to the petitioner and proforma respondents, on the plea that his

maternal great grandmother had mortgaged the land to one Hardan son of Jalu for Rs.1600/- by way of oral mortgage, which was duly recorded in mutation No.524 and that he has become owner of the said property through inheritance; therefore, he wants to redeem the land by making payment of Rs.1600/-.

2.1 Petitioner appeared in the aforesaid petition and submitted his reply (Annexure P-2). During the pendency of the afore-said proceedings, the petitioner filed an application (Annexure P-3), seeking permission to adduce additional evidence by way of submitting certified copy of an order dated 16.01.2015 passed by learned Collector, Hisar. The said application was contested by respondent No.2.

2.2 Learned Collector, Hisar vide impugned order dated 25.03.2025 (Annexure P-5) dismissed the application (Annexure P-3) submitted by the petitioner for adducing additional evidence, by observing as under :-

“File has been presented to me. Attendance as it is. Respondent’s counsel Sh. Rajbir Dabra had filed an application dated 15.09.2021 for production of additional evidence. In response to that counsel for the petitioner filed his reply dated 22.10.2021 to the aforementioned application. Thereafter, case was adjourned to 07.03.2025 for arguments. Both the counsels have been heard in detail. Counsel for the respondent in his arguments reiterated his version for production of additional evidence. In response to which counsel for the petitioner stated that at this stage additional evidence cannot be accepted as the matter in hand is at the fag end. Considering the substance in the arguments of the petitioner, I have come to the conclusion that request for producing additional evidence at this stage would amount to prolonging the same, hence I dismissed the application dated

15.09.2021 filed by the respondent. Now the case is adjourned to 09.04.2025 for arguments.”

2.3 In the afore-mentioned circumstances, the present writ petition has been filed before this Court, for the relief/s, as noticed here-in-above.

3. Learned counsel for the petitioner submits that the learned Collector, Hisar has erred in law and fact while dismissing the application (Annexure P-3) submitted by the petitioner for adducing additional evidence, without considering the fact that earlier respondent No.2 had submitted a similar petition for redemption of mortgage, which was subsequently withdrawn by him. It is submitted that while seeking withdrawal of the earlier petition, respondent No.2 had also sought liberty to file a fresh petition by impleading all the stake-holders in the land in question. It is submitted that although, respondent No.2 was permitted to withdraw the earlier petition, however, the liberty to file the fresh petition was not granted to him. It is, accordingly, contended that since the petitioner had withdrawn a similar petition for redemption of mortgage, wherein the liberty to file a fresh petition was not granted; therefore, the petition (Annexure P-1) now filed by respondent No.2 for redemption of mortgage, was not maintainable. Thus, the application (Annexure P-3) submitted by the petitioner for leading additional evidence, ought to have been allowed by the learned Collector.

4. Heard.

5. In the present case, the petitioner filed an application (Annexure P-3) for leading additional evidence, as noticed above; primarily to show that respondent No.2 had earlier withdrawn a similar petition for redemption of mortgage, wherein the liberty to file a fresh petition was not

granted; therefore, the petition (Annexure P-1) now filed by respondent No.2 for redemption of mortgage, was not maintainable.

5.1 Here, it would be apposite to refer to the statement dated 16.01.2015 made by respondent No.2 while withdrawing the earlier petition for redemption of mortgage, which reads as under :-

“Statement:- Atmaran son of Smt. Meera daughter of Dhammi resident of Bhana Tehsil and District Hisar on S.A.

Stated that I have submitted an application for redemption in the Hon’ble Court on 22.06.2011. I have not impleaded all the parties as per the Jamabandi. The applicant had filed an application under Order 6 Rule 17 read with Section 151 CPC and under Order 1 Rule 10 read with Section 151 CPC in the court, on which the Hon’ble Court dismissed my application on 19.07.2013 on the ground that the applicant should withdraw the present application and file a fresh application. The respondent also had an objection that all have not been impleaded as parties in this case. Therefore, I withdraw my application for redemption and reserves the right to file it again by presenting the complete facts and by impleading all the parties.”

5.2 A perusal of the above extracted statement made by respondent No.2, while withdrawing the earlier petition for redemption of mortgage would show that respondent No.2 had clearly sought permission to withdraw with liberty to file a fresh petition.

6. In the afore-mentioned circumstances, the question which arises for consideration is as to “*whether in a case where permission is sought to withdraw a petition with further permission to file a fresh petition on the same cause of action, the Court is competent to split the prayer and allow withdrawal without passing any order with regard to permission to file a fresh petition sought therein?*”

6.1 The afore-said issue is no more *res-integra* as the same already stands decided by this Court in the case of ***Surjan Singh vs Amarjit Singh, 1993 Punjab Law Journal 35***; wherein it was held that the statement had to be read as a whole and the same could not be split up. It was observed that permission to file a fresh suit on the same cause of action and the permission granted for withdrawal of the suit was an integral part of the request made to the Court and in these circumstances, the Court is to permit withdrawal of the suit coupled with the liberty to file a fresh suit. It was further observed that the Court in the given case brought before it may refuse to grant permission to withdraw the suit but it is not open to the Court to split up the statement into two parts i.e. permission to withdraw the suit but without adverting to the other request of the plaintiffs for permission to file a fresh suit on the same cause of action.

6.2 The afore-said judgment in ***Suraj Singh's*** case (*supra*) was further relied upon in the case of ***Lal Singh vs Ajit Singh, 2008(3) RCR(Civil) 650***.

6.3 Keeping in view the afore-said judicial pronouncements, since respondent No.2 had sought permission to withdraw the earlier petition for redemption of mortgage with liberty to file a fresh petition and the Court having granted the permission only to withdraw the earlier petition, in that eventuality, the liberty to file a fresh petition is deemed to have been granted.

7. In view of the afore-said position, since the additional evidence to be led by the petitioner was only as regards submission of an order dated 16.01.2015 passed by the then Collector, Hisar; so as to take up the plea that the second petition for redemption was not maintainable; in my considered view, such plea not being available to the petitioner, I find

no compelling reason to allow the application (Annexure P-3) submitted by the petitioner for leading additional evidence. Resultantly, the instant writ petition fails and the same is, accordingly, dismissed.

8. Pending application/s, if any, shall also stand closed.

July 09, 2025
gurpreet

(HARSH BUNGER)
JUDGE

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