

**CR-7039-2024****-1-****IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****(123)****CR-7039-2024****Date of decision: - 09.01.2025****Rajbir Kaur****....Petitioner****Versus****Prabhdyal Singh and others****.....Respondents****CORAM : HON'BLE MR. JUSTICE VIKAS BAHL**

Present:- Mr. Sukhbir Maandi, Advocate
for the petitioner.

**********VIKAS BAHL, J. (ORAL)**

1. Present civil revision has been filed under Article 227 of the Constitution of India for setting aside the order dated 23.10.2024 passed by the Additional Civil Judge (Sr. Divn.) Tarn Taran, District Tarn Taran vide which the application filed by the petitioner under Section 151 CPC for examining the plaintiff witnesses has been dismissed.

2. Brief facts of the case are that the present petitioner had filed a suit for permanent injunction to the effect that the plaintiff is in possession of the land in question. As is apparent from the reply (Annexure P-3), the stand of the defendants was that the plaintiff was not in possession of the suit land. After the issues had been framed and the entire evidence had been led and the case had been already partly argued on 03.09.2024, the present petitioner had moved an application dated

**CR-7039-2024****-2-**

05.09.2024 (Annexure P-2) under Section 151 CPC for examining one witness who was the concerned circle patwari.

3. Learned counsel for the petitioner has submitted that the petitioner wanted to examine the concerned circle patwari to produce on record the khasra girdawari with respect to the land in question from the year 2010 to till date and the evidence of the said patwari was necessary.

4. The said application (Annexure P-2) was opposed by the respondents by filing a detailed reply (Annexure P-3), in which it was stated that the application under Section 151 CPC was not maintainable as the present petitioner was not seeking permission for additional evidence and there was no issue on which the plaintiff could lead rebuttal evidence and the evidence of the plaintiff had been closed and even the defendants had led their entire evidence and that the matter had already been partly argued. It was further stated that the evidence which was now sought to be produced was very much available with the petitioner/plaintiff at the time of producing her evidence in affirmative and she should have produced the said evidence in the affirmative in the present case, more so, when the defendants had specifically denied the possession of the plaintiff in the written statement. It was also averred that the petitioner/plaintiff had been granted sufficient number of opportunities to produce her evidence and once she had led her entire evidence, the application under Section 151 CPC was not maintainable.

5. The trial Court vide order dated 23.10.2024 had dismissed the said application by observing that the present application had been

**CR-7039-2024****-3-**

filed under Section 151 CPC and the same was not maintainable as the petitioner was not even seeking to lead additional evidence and even otherwise the provision for leading additional evidence had been deleted by the legislature. It was further observed that the primary issue in the present case was of possession and the issues had been framed on 16.11.2021 and the petitioner had led her entire evidence and even the defendants had led their evidence and the matter had been even partly argued and thus, the application was neither maintainable nor meritorious.

6. Learned counsel for the petitioner has not been able to show as to how the present application was maintainable, after the petitioner had led her entire evidence in the suit for permanent injunction filed by her and even the evidence of the defendants had been completed and the case was also partly argued. Moreover, a specific objection had been taken in the reply (Annexure P-3) to the effect that there was no such issue on which the plaintiff/petitioner could lead any rebuttal evidence. The order framing issues has not been placed on record in order to rebut the said objection. It is a matter of settled law that the plaintiff can lead rebuttal evidence only with respect to the issues onus of which is on the defendants. In the present case, in the reply (Annexure P-3) it has further been highlighted that the defendants had denied the possession of the plaintiff in their written statement and even the said aspect has not been rebutted before this Court and thus, it was for the plaintiff to prove his possession in the affirmative.

7. Keeping in view the above-said facts and circumstances, the

CR-7039-2024

-4-

impugned order dated 23.10.2024 passed by the Additional Civil Judge (Sr. Division), Tarn Taran, District Tarn Taran, is in accordance with law and the revision petition filed by the petitioner being meritless, deserves to be dismissed and is accordingly dismissed.

January 09, 2025
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	Yes