

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

204

CR-2586-2024 (O&M)

Date of decision: 16.03.2026

Darshan Kaur and others

...Petitioner(s)

Vs.

Mandir Hanuman Ji and another

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Rakesh Gupta, Advocate and
Ms. Manvi Arora, Advocate
for the petitioners.

Mr. Nissim Aggarwal, Advocate
for Mr. Sanjiv K. Aggarwal, Advocate
for the respondent No.1.

NIDHI GUPTA, J.

Present Civil Revision Petition under Article 227 of
Constitution of India has been filed by defendant No.2 against the order
dated 13.03.2024 (Annexure P-1) passed by the Civil Judge (Junior
Division), Kaithal whereby application filed by petitioner under Section
151 CPC for permission to lead additional evidence, has been dismissed.

2. Brief facts of the case in chronological order are as follows: -

25.09.2013: The plaintiff/respondent No.1 had filed a Civil Suit dated
25.09.2013 (Annexure P-2) for possession, mesne profit, and permanent
injunction.

22.10.2014: Petitioner had filed written statement dated 22.10.2014
(Annexure P-4).



17.03.2015: Issues were first framed in the Suit vide order dated 17.03.2015 (Annexure P-6).

05.05.2018: Thereafter, an application was filed for framing of additional issues. The said application was allowed vide order dated 05.05.2018 (Annexure P-7) and additional issues were framed.

05.01.2024: In the meantime, defendant No.2 had expired and LRs of defendant No.2 had to be brought on record which was permitted vide order dated 05.01.2024.

23.01.2024: On 23.01.2024, petitioner had filed application for amendment of written statement.

06.02.2024: Vide order dated 06.02.2024 (Annexure P-8), the said application of the petitioner for amendment of the written statement was allowed.

13.02.2024: Subsequently, vide order dated 13.02.2024 (Annexure P-9), issues were reframed.

Nil: It is at this stage, that the petitioner had filed instant application dated nil (Annexure P-10) under Section 151 CPC for additional evidence.

13.03.2024: Vide impugned order dated 13.03.2024, the said application of the petitioner has been dismissed.

3. It is *inter alia* submitted out by learned counsel for the petitioners that the application of the petitioners has been wrongly dismissed by learned Trial Court as admittedly, the property in question was in the possession of Mohinder Singh as a tenant, and on his death, his tenancy was inherited by his legal heirs.



4. It is submitted that the reframed issue was only to the effect as to whether Mohinder Singh had adopted Jaswant Singh as his son and after the death of Jaswant Singh, his legal heirs are entitled to inherit the tenancy. In this regard, the application for additional evidence filed by the petitioners was as to whether Jaswant Singh was the adopted son of Mohinder Singh. That being the basic issue, the evidence which was sought to be produced by the petitioner was the documents which are to prove the parentage of Jaswant Singh. The said documents are of the government records. It is pertinent to mention here that while leading the evidence in affirmative, the petitioner has placed on record the original ration card of Mohinder Singh to prove the members of his family i.e. ration card of 27.9.1991. To prove that ration card, officials from the Food and Supplies Department was summoned, who while appearing as a witness stated that he cannot comment on the correctness of the ration card without verifying the records. It is submitted that the original ration card of Mohinder Singh in which Jaswant Singh was mentioned as his son was already on record. Subsequently the petitioner was able to get the original ration card No.15548 which was signed by the Assistant Food and Supplies Officer, Kaithal on 24.1.1988. Now the petitioner is seeking to place on record the school certificate of Jaswant Singh of the year 1980. The said record is something which cannot be created, but in any case, the said document is important as the basic issue before the court below is regarding parentage and age of Jaswant Singh. It is worth mentioning



here that the only reason given by the respondent to oppose the application is that the documents are been produced belatedly. Since the document which is sought to be produced is a document issued by government authorities while performing their public duty and it cannot be forged, rejection of the application for additional evidence is patently wrong and hence the same is liable to be set aside.

5. Moreover, there was some dispute even with regard to the age of Jaswant Singh. As such, by way of additional evidence, the petitioner had sought to produce the school record of Jaswant Singh to prove his age. Learned counsel submits that in this context, it was necessitated that the additional evidence be led for the proper adjudication of the matter. However, while passing the impugned order, the only yardstick applied for refusing the additional evidence is the relevance of the evidence sought to be produced. It is submitted that the said yardstick could not have been applied as per established tenets of law as the merits of the evidence sought to be produced by the petitioner, could not have been gone into by the learned Trial Court. In fact, the said additional evidence goes to the root of controversy.

6. Even observation of the learned Trial Court that the application has been moved at a belated stage, is incorrect as issues were reframed on 13.02.2024, and the present application was moved immediately thereafter. The impugned order is therefore, erroneous and deserves to be set aside.



7. *Per contra*, learned counsel for respondent No.1 vehemently opposes submissions made on behalf of the petitioners and submits that the issues in respect of which the petitioners are seeking to lead additional evidence were framed as far back as in 05.05.2018; whereas the instant application has been moved only in the year 2024.

8. It is accordingly submitted that the impugned order suffers from no error and the present Revision Petition deserves to be dismissed.

9. No other argument is raised on behalf of the parties. I have heard learned counsel and perused the case file in great detail.

10. The sequence of events has already been noted here-in-above. Petitioners are seeking to lead additional evidence in respect of the age and parentage of Jaswant Singh. A perusal of Annexure P-7, which is order dated 05.05.2018; whereby issues were re-framed, shows that issue No.1 is *“Whether the Mohinder Singh had adopted son namely Jaswant Singh and after his death his legal heirs Balwinder Kaur and others had inherited the tenancy rights? OPD”* already stands framed. Thus, petitioner has had opportunity to lead evidence in respect of the parentage of Jaswant Singh, since framing of issue in this regard in 2018.

11. The record further reveals that petitioner has been granted as many as 20 opportunities to lead evidence in this regard. Even evidence of the petitioner stood concluded vide order dated 31.01.2020.

Clearly therefore, at this belated stage, application for additional

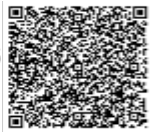


evidence filed by the petitioners was not maintainable. From the above facts, it is also clear that the said application has been filed by the petitions only with a view to delay the trial. Petitioners have also failed to prove due diligence.

12. It is also to be noted that the petitioner no.1 herein is the real mother of Jaswant Singh. As such, it is inconceivable that she would not know the above details regarding her son Jaswant Singh, which are now sought to be produced by way of additional evidence.

13. The relevant observations of the Trial Court are contained in para 5 of the impugned order dated 13.03.2024, which reads as under: -

"5. The Court has inherent power to allow the application for additional evidence in case it is necessary for just and proper decision of the case. The evidence can be permitted to lead by way of additional evidence which was not in the knowledge of the party or failed to produced even after due diligence. The case is at fag end of trial and at this stage the plaintiff cannot be allowed to fill up lacuna of his case by way of present application. To support my view, this Court placed reliance upon case titled as "Kuldeep Singh Vs. Surjit Kaur and others 1992 (2) CCC 56 (P&H), wherein our Hon'ble High Court has held that Additional evidence when a part consciously proceeds with the case and does not produce the evidence which he could have produced then it is improper to invoke the provisions of Order 18 Rule 17-A of the Code later on. Further held that Conditions necessary are (1) The party must satisfy the Court that after exercising due diligence some evidence was not within his knowledge (ii) That he could not produce that evidence with due diligence



when he was leading evidence (iii) Interest of justice (iv) That application is genuine and filed with the sole object to decide the rights of the parties. "Similarly in the present case, there is no explanation regarding the fact of the said application that why the applicant has not brought this evidence during evidence stage despite the fact, applicant is real mother of Jaswant Singh and Dhyan Singh was father of Jaswant Singh and he was very much in knowledge of schooling of Jaswant Singh. Dhyan Singh examined on file as DW3. Therefore, it cannot be presumed that applicant and her husband Dhyan Singh were not in knowledge of study of his son Jaswant Singh. The recollecting of memory by applicant appears to be only an afterthought and to fillup the lacuna in the present case. The applicant has failed to show that despite due diligence he failed to produce this evidence and the same came into his knowledge after closing of his evidence. If the present application is allowed, it will amount to denovo trial."

14. Learned counsel for the petitioners is unable to controvert or dispute the above said facts and findings.
15. Keeping in mind the totality of the facts and circumstances of the case, there is no error in the impugned order dated 13.03.2024 (Annexure P-1). The present Civil Revision Petition is **dismissed**.
16. Pending application(s), if any, also stand(s) disposed of.

16.03.2026
Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No