

2026:PHHC:067274



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

**Civil Revision-115-2023 (O&M)
Decided on:-30.04.2026**

Harbhajan Kaur

....Petitioner..

VS.

Prem Pal and others

....Respondents.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: None for the petitioner.

Mr. Gobind Dhanda, Advocate,
for respondent No.1.

Ms.Pushpanjali Bisht, Advocate for
Mr. Daman Dhir, Advocate for respondent No.2.

HARKESH MANUJA J. (Oral)

1. By way of present revision petition, challenge has been laid to an order dated 19.11.2022 passed by the learned Civil Judge (Junior Division), Kaithal, whereby, an application dated 14.03.2022 preferred at the instance of petitioner-defendant No.1, seeking permission to lead additional evidence, was dismissed.

2. In the present case, a suit for declaration and mandatory injunction was filed on behalf of respondent No.1-plaintiff with the following prayer:-

“It is, therefore, prayed that a decree for declaration to the effect that the sale deed no.6241/1 dated 7.3.2001 is not binding upon the rights of the plaintiff in respect of the suit

property and the same is illegal, null & void and further a decree for mandatory injunction directing the defendant no.1 to remove the encroachment from the suit property fully detailed in para no.1 of the plaint and further a decree for permanent injunction restraining the defendants forever from raising any sort of construction over the suit property or any part thereof illegally and forcibly be passed with costs in favour of the plaintiff and against the defendants.”

Upon framing of issues, the parties were afforded adequate opportunities to lead their evidence. The evidence of the petitioner-defendant No.1 (Harbhajan Kaur) was closed on 06.09.2019 and the matter was thereafter, posted for rebuttal evidence and arguments. However, after a gap of almost 2 years and 6 months i.e. on 14.03.2022, the petitioner-defendant No.1 moved an application seeking permission to lead additional evidence to the following effect:-

“ x x x

4. *That in order to prove the above said fact that actually the applicant/defendant No. 1 has not encroached any portion of the property belonging to the plaintiff the applicant/defendant No. 1 moved one application with the Ld. Tehsildar Kaithal upon which Ld. Tehsildar, Kaithal pleased to appoint revenue official namely Surinder Kumar with a direction to visit the spot and to report about the actual state of affairs.*

5. That after the orders of the Ld. Tehsildar Kaithal the above said Surinder Kumar visited the spot and gave his report on dated 01/03/2019. The above said report has been produced on the case file as Ex. DW 1/F.

6. *That although the above said report has been exhibited but the revenue officials who conducted the spot inspection has not been examined.*

7. That the applicant defendant No. 1 has also got

prepared one site plan of the spot, the original of the said site plan has been produced In the court file of the civil suit titled as "Harbhajan Kaur versus Suresh Kumar". The applicant/defendant No. 1 wants to produced and prove the above said site plan by examining the draughtsman Sh. Suresh Kumar. Similarly, the applicant/defendant No. 1 wants to examine Sh.Surinder Kumar who conducted the spot inspection and further wants to produce the certified copy of the sale deed bearing No. 335/1 dated 27/04/1999."

2.1 The said application was opposed at the instance of respondent No.1-plaintiff. The learned trial Court vide order dated 19.11.2022, declined the prayer made on behalf of the petitioner-defendant No.1.

3. Impugning the aforesaid order, the present revision petition has been filed by the petitioner.

4. I have heard learned counsel representing respondent No.1 and gone through the paper book.

5. Apparently, the conduct of the petitioner-defendant No.1 lacks diligence during the recording of her evidence before the learned trial Court, however, once the report dated 01.03.2019 prepared by Mr. Surinder Kumar, Local Commissioner, was proved on record as Ex.DW-1/F, his cross-examination by petitioner-defendant No.1 became essential so as to take into consideration his report as an evidence, particularly when the said Local Commissioner was never appointed by the learned Trial Court. Pertinently, in the absence of Mr.Surinder Kumar, Local Commissioner appearing before the learned Trial Court to make himself available for his cross-examination by petitioner-defendant No.1, it would definitely affect the evidentiary value of his report (Ex.DW-1/F).

6. In such circumstances, purely in the interest of justice, so as to afford the parties to the suit a fair opportunity and to ensure that all the relevant material in the form of evidence is available with the learned Trial Court, the present petition is allowed and the order dated 19.11.2022 passed by the learned Trial Court, is hereby set aside. The learned Trial Court is requested to afford another opportunity to the petitioner-defendant No.1 to produce and prove her entire additional evidence on the date fixed by the learned Trial Court after impending date of hearing.

6.1 The aforesaid order shall, however, be subject to payment of costs of Rs. 50,000/- to respondent No.1 before the learned Trial Court on the date of appearance, towards inordinate delay of 2½ years in filing the application.

7. Pending applications, if any, also stand disposed of.

30.04.2026
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(HARKESH MANUJA)
JUDGE

(i)Whether speaking/reasoned: Yes/No (ii) Whether reportable: Yes/ No