

CR-7444-2024(O&M) 1

2026:PHHC:054937



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CR-7444-2024(O&M)

Date of decision : 09.04.2026

Surdeep Singh @ Sardeep Singh

... Petitioner

Versus

Surjit Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Prateek Sodhi, Advocate (through V.C.) and
Ms.Yukta Garg, Advocate
for the petitioner.

Mr.Harminster Singh, Advocate and
Mr.Damanjeet Singh, Advocate
for respondent no.2.

VIKAS BAHL, J.(ORAL)

1. This is a Civil Revision Petition filed under Article 227 of the Constitution of India for setting aside the order dated 02.12.2024 (Annexure P-7) passed by the trial Court vide which the application under Section 151 CPC filed by the petitioner seeking permission to file additional affidavit of plaintiff witnesses has been dismissed.

2. Learned counsel for the petitioner has submitted that the petitioner along with proforma respondent no.3 had filed a suit for declaration and after the suit was filed, the first amendment was allowed and in paragraph 2 of the said amended plaint, the plaintiff has made the following averments:-

“2. That, the plaintiffs were the exclusive owner of land bearing



Khasra No. 63//7/1/2/1 measuring 4 Kanals 12 Marlas which is situated at some distance of the land in joint khata of the plaintiff and the plaintiff were not having any source of irrigation etc. of that land and the said land was touching to the land of the defendants and they approached the plaintiff No. 1 for the sale of the said land bearing Khasra No. 63//7/1/2/1 in the year 1996 and the plaintiff No. 1 executed the sale deed of the said land on 19.12.1996 and the possession was also delivered of the Khasra No. 63//7/1/2/1, however after some time it has come to the notice of the parties that the Patwari due to mistake and over sightenss has given the jamabandi of the other land of the plaintiffs in place of Khasra No. 63//7/1/2/1 i.e. of Khasra No. 84//25/2, 89//5/1 and under that reason in the sale deed the wrong khasra numbers were mentioned and the understanding between the parties it was settled between the parties to cultivate the land bearing Khasra No. 84//25/2 and 89//5/1 by the plaintiffs as owners and the Khasra No. 63//7/1/2/1 of whose possession was given at the time of sale deed will be cultivated by the defendants as owner, however no formal writing was written between the parties just in good faith as it required big amount of expenses for the registration of the sale deeds by cancellation of the one sale deed and to execution of fresh sale deed and since that oral settlement in the end of May, 1997 the plaintiff and defendants are cultivating the above mentioned land as owners exclusively, peacefully, uninterruptedly and their title is and possession of respective khasra numbers is adverse to the whole of the world including each other and none of the parties ever objected to the same.”

3. It is submitted that a perusal of the same would show that there was specific averment to the effect that wrong khasra numbers have been mentioned in the sale deed on account of mistake and oversightedness. It is submitted that, thereafter, the plaintiffs had further moved subsequent application for amendment and wanted to add paragraph 3A to the effect that audio video recording is there of the conversation between the father of the defendants and the plaintiffs which would prove the version of the



plaintiffs and the trial Court vide order dated 13.09.2024 had observed that the said audio video recording can be tendered by the plaintiffs during the course of their evidence or they can put the same to the witness examined by the defendants but the pleadings could not be amended on the basis of the said audio video recording. It is submitted that the said piece of evidence was in consonance with the earlier pleadings and since the specific averment regarding the audio video recording has not been made in the earlier affidavits filed by PW-1 and PW-2 which was on 01.03.2024 and 01.05.2024, thus, the petitioner had moved an application for filing an additional affidavit of Surdeep Singh and Harjit Singh. It is submitted that the said two witnesses have not been cross-examined till date but the trial Court had rejected the said application vide the impugned order. It is argued that the point in issue is squarely answered in favour of the petitioner in the judgment of the Co-ordinate Bench of this Court in the case of ***Jasbir Singh vs. Surinder Kumar, CR no.3042 of 2011, decided on 12.07.2011*** in which the Co-ordinate Bench of this Court had held as under:-

“As is clear from the impugned order passed by learned trial court, cross-examination of the petitioner has not yet started. The petitioner had already filed an affidavit of his examination-in-chief. The present application has been filed by the petitioner on the plea that his deposition on some important points could not be incorporated in the affidavit and hence, he made a request to allow him to file additional affidavit or allow him to examine himself before starting cross-examination by counsel for the opposite party. His plea has been declined by learned trial court on the plea that the same amounts to filling up the lacunae in the case of the petitioner-defendant. However, the said approach of the learned trial court is not legal. The petitioner is having a right to file additional



affidavit or to make a request to allow him to examine himself as a witness in addition to the averments already made in the affidavit before starting cross-examination by the other side.

Hence, the present revision petition is accepted and the impugned order is set aside.”

4. Learned counsel for the petitioner has further relied upon the judgment of the Co-ordinate Bench of this Court in the case of ***Aman Goel vs. Chuni Lal and others, CR-6517-2011 decided on 21.10.2011*** in which the proposition of law as laid down in the case of ***Jasbir Singh (supra)*** has been reiterated. It is submitted that thus, the first ground taken in the impugned order to the effect that there is no provision of law permitting the petitioner to file an additional affidavit is in violation of the law laid down in the said two judgments, as it is a matter of settled law that before cross-examination is conducted, the petitioner has every right to file additional affidavit which would be treated as his evidence in chief. It is further argued that the evidence, which is sought to be led, is not contrary to the pleadings and is rather to prove their pleadings.

5. Learned counsel for respondent no.2, on the other hand, has submitted that there is no pleading with respect to the audio video recording in the plaint and the specific amendment sought in the plaint with respect to the same has been dismissed vide order dated 13.09.2024 and the plaintiffs have only been given the right to tender the said audio video recording. It is submitted that at any rate in case the petitioner is to tender his subsequent affidavit before cross-examination, then, the respondents be given the right



to raise objection with respect to the part of pleadings, which as per the case of the respondents, is beyond pleadings.

6. Learned counsel for the petitioner, in rebuttal, has submitted that the said objection be decided at the stage of final adjudication after hearing both the parties on the said aspect.

7. Keeping in view the above said facts and circumstances and the fair stand taken on behalf of the petitioner as well as respondent no.2, the present revision petition is disposed of by setting aside the impugned order dated 02.12.2024 with the following observations / directions:-

- i) It would be open to the petitioner to file his additional affidavit as prayed for in the application (Annexure P-5) within a period of two weeks from today.
- ii) It would be open to the respondents to raise all objections including the objection with respect to any part of the said additional affidavit being beyond pleadings. The said objections would be kept open and would be decided by the trial Court at the stage of final adjudication after hearing both the parties concerned in accordance with law.

(VIKAS BAHL)
JUDGE

April 09, 2026.
Davinder Kumar

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