

**(2000) 08 P&H CK 0240**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** Civil Revision No. 1518 of 1998

Jagdish Chand

APPELLANT

Vs

Darshan Singh

RESPONDENT

**Date of Decision:** Aug. 3, 2000

**Acts Referred:**

- Civil Procedure Code, 1908 (CPC) - Order 18 Rule 17A, 151

**Citation:** (2002) 1 CivCC 284 : (2001) 4 CivCC 87 : (2001) 4 RCR(Civil) 725

**Hon'ble Judges:** Swatanter Kumar, J

**Bench:** Single Bench

**Advocate:** P.K. Gupta, for the Appellant; Manish Singhla, for the Respondent

**Judgement**

Swatanter Kumar, J.

This revision is directed against the order dated 31.3.1998 passed by the learned Civil Judge (Junior Division), Bathinda, vide which the learned Judge dismissed an application for additional evidence under Order 18 Rule 17-A of Code of Civil Procedure.

2. Jagdish Chand and others (present petitioners) had filed a suit for permanent injunction restraining the defendants from interfering with their peaceful possession over the land measuring 1 bigha 4 biswas, as detailed in the plaint. It was claimed by the plaintiffs that they were in possession of the land in dispute. The suit was contested by the defendants as to its maintainability and even on merits.

3. Certain events took place during the pendency of the suit as a result of which the plaintiffs filed an application for appointment of a Local Commissioner for demarcation of the property and to bring the correct facts before the Court. The said application was dismissed by the learned trial Court vide its order dated 31.3.1998, revision against which has also been dismissed by this Court. In addition thereto, an application was filed under Order 18 Rule 17-A read with Section 151 of Code of Civil Procedure, wherein the plaintiffs prayed that they wanted to produce

demarcation report of the concerned Kanungo dated 9.12.1997. During the pendency of the suit, a Local Commissioner was appointed by the revenue authorities to demarcate the property in question. It is noticed and even admitted in the report that ownership and possession was of the defendants. The report dated 9.12.1997 relates to the factum that the plaintiffs were dispossessed from the part of the disputed land and as such they had lodged report being report No. 26 dated 19.12.1996. The application, thus, was filed to produce on record the demarcation report and nakasha twafat got prepared by the revenue authorities and especially the report of the Local Commissioner i.e. the Field Kanungo, who was appointed by the revenue authorities. This application has been rejected by the learned trial Court, giving rise to the present petition.

4. Learned counsel for the petitioners, while relying upon two judgments of this Court in the cases as Kishan and Ors. v. Mukand and another, 1987 PLJ 173 and Prithi v. Balwant, 1999(2) RCR 377, contended that such reports could be placed on record by way of additional evidence. On the other hand, the learned counsel for the respondents, while relying upon the judgments in the cases Ram Sarup Gupta (Dead) by Lrs. Vs. Bishun Narain Inter College and Others, and Rajinder Parkash v. Municipal Committee, Nabha, 1998(1) PLR 455:1998(1) RCR 499 (P&H), contended that there has been considerable delay of 4 months in filing the present application for permission to lead additional evidence. As such the application is not bona fide and the same could be dismissed.

5. In view of the above, I am of the considered opinion that as event/evidence sought to be placed on record is subsequent to the institution of the suit and is primarily based upon official records/documents prepared by the department of revenue in discharge of its duty, the application should be allowed. Mere fact that the application has been filed after 4 months, per se, would not be delay of such kind which would disentitle the plaintiffs for the relief prayed for. The purpose of procedural law is to further the justice and to grant adequate opportunities to the parties to prove their case. Placing of this evidence on record, in fact, would further the Court in determining the controversy between the parties fully and finally. Obviously, validity of such evidence would be for the Court to consider on merits but the plaintiffs-applicants cannot be precluded from placing on record the additional evidence.

6. 1 would follow the view taken by the two Benches of this Court in the cases of Kishan and Prithi (supra) and consequently, the revision is allowed. The impugned order dated 31.3.1998 is set aside. The applicants would be permitted to lead additional evidence subject to its admissibility in accordance with law on payment of Rs. 1000/- as costs. Parties would appear before the learned trial Court on 8.9.2000.

7. Petition accepted.