

(2001) 12 P&H CK 0054
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 611 of 1995

Ram Dass Chela Basant Dass and Another	APPELLANT
Vs	
State of Haryana and Others	RESPONDENT

Date of Decision : 21-12-2001

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 41 Rule 37(1), 115

Citation : (2001) 12 P&H CK 0054

Hon'ble Judges : Jasbir Singh, J

Bench : Single Bench

Advocate : G.S. Bawa, for the Appellant; Rattan Singh, AAG, for the Respondent

Final Decision : Dismissed

Judgement

Jasbir Singh, J.—The present revision petition has arisen out of the order dated 3.1.1995 passed by the Additional Sessions Judge, Sirsa,

vide which the application of the respondent-State has been allowed under Order 41 Rule 27 of Code of Civil Procedure. The respondents-State

has been allowed to bring on record some documents and also adduce evidence to prove those documents.

2. Counsel for the petitioners Shri G.S. Bawa vehemently contended that the order of the appellate court under challenge is not covered under the

provisions of Order 41 Rule 27 of the Code of Civil Procedure. All these documents were available and within the knowledge and possession of

the respondents-state when the evidence was going on before the trial court and lie prays that the order under challenge be set aside.

3. Shri Rattan Singh, AAG Haryana appearing on behalf of the State controverted the arguments raised by the counsel for the petitioners by stating

that in the suit filed by the petitioners, respondents-state has taken a specific

stand that the land was being leased out on year-to year basis and also it was stated that at the relevant time when the suit was filed land has already been transferred to the Forest Department. He further states that due to some mistaken belief, the Government pleader conducting the present case on behalf of the State could not produce these documents which otherwise are very material for the adjudication of the dispute between the parties. While disposing of the application of the respondent-State, the appellate court has noted down the contentions which are now being raised by the petitioners. The court below has further opined that the documents have material bearing on the decision of the case as the documents pertain to the suit land and its possession which is the controversy in the pending appeal. The copy of the judgment passed by the trial court dated 19.4.1993 and application moved by the respondents-state have been placed on record by the counsel for the petitioners. A reading of these documents clearly shows that the documents which now, respondents intend to produce on record by leading additional evidence are in consonance with the stand taken by them before the trial court. Technically the case may not be covered under Cause (a) and (aa) of Sub Rule 1 of Rule 27 Order 41, but it seems to be covered under Clause (b) of that Sub-rule. The appellate court has given a definite opinion that these documents are essential and have a material bearing on the decision of the case. The property belongs to the State. The official of the State seems to be somewhat negligent. In these circumstances, a special care and caution is required to be exercised and at the same time the officials who were not upto the mark, some action can be proposed against them. In civil litigation, grant of costs is panacea for all ills. This court feels that no grave injustice and loss will be caused to the petitioners if these documents are allowed to be brought on record and proved. The State-respondents, however will be allowed to do so subject to the payment of Rs. 3,000/- as costs which will be paid before the appellate court on the first date of hearing to the petitioners. The District Collector, Sirsa is directed to fix the responsibility of the officials who were negligent in not producing the relevant evidence at the proper time and the costs will be recovered from the said official. The needful must be done within six months and the intimation of the action taken will be sent to this court, thereafter.

The revision petition is dismissed subject to the above mentioned observations.