

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

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**CR-2186-2025(O&M)**  
**Date of decision: 10.09.2025****Devender Malik****...Petitioner(s)****Vs.****Rohtash @ Bhoop Singh & Others****...Respondent(s)****\*\*\*****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**Present:- Mr. Mohit, Advocate  
for the petitioner.

Mr. Priyavrat Parashar, AAG Haryana for respt.No.3&amp;4.

Mr. Gurdial Singh Jaswal, Advocate  
for respondents No.1 and 2.**\*\*\*****NIDHI GUPTA, J.**

Present Revision Petition under Article 227 of the Constitution of India has been filed by the plaintiff seeking setting aside of the order dated 10.03.2025 (Annexure P1) passed by learned Civil Judge (Junior Division), Panipat in Case CIS No.CS/12/2018 titled as "Devender Malik Vs. Rohtash & Others", whereby application dated 16.11.2021 (Annexure P3) for additional evidence filed by the petitioner has been dismissed.

2. Learned counsel for the petitioner inter alia submits that the petitioner had filed Civil Suit (Annexure P1) for seeking declaration to the effect that the petitioner being coparcener, is owner in joint possession of



the suit land. In the said suit, written statement (Annexure P6) was filed by the defendants No.1 and 2/respondents No.1 and 2 herein admitting in Para 4 of the Reply on Facts that "*The suit land is ancestral property .....*". It is submitted that however, during their evidence the said respondents changed their stance and denied the ancestral nature of the suit property; which has necessitated the filing of the present application for additional evidence to enable the petitioner to prove the ancestral nature of the suit property. It is submitted that by way of present application (Annexure P3), the petitioner is only seeking to produce on record Jamabandi for the year 1929-30 in Urdu; copy of translation in Hindi for Jamabandi for the year 1929-30; certified copy of Mutation No.567 in Urdu language; copy of Hindi translation of Mutation No.567; original electricity bills of tubewell connection no.AP-02-1101-K & AP-01-1118-K which already installed in the agriculture land of village Ugrakheri and Nimbri, Tehsil and District Panipat respectively and further to produce bill payment receipts. It is further submitted that there shall be no need for oral evidence and the petitioner be only granted one effective opportunity for additional evidence.

3. Learned counsel for the State counters the submissions of the petitioner by firstly submitting that after amendment of CPC, the provision for leading of additional evidence under Order 18 Rule 17A CPC have been omitted in the year 1999. As such, there is no provision of law under which the petitioner can be permitted to lead additional evidence.



4. It is further submitted that in any event, the petitioner cannot be permitted to lead additional evidence as the suit is at the advanced stage and issues have already been framed. Moreover, from the above facts, it is clear that no due diligence has been exercised by the petitioner inasmuch as application of the petitioner (Annexure P3) reveals that the said documents were not produced at time of affirmative evidence as the *“above said documents were not available at time of evidence of plaintiff...”*. Learned counsel submits that revenue record is readily available and therefore the said statement of the petitioner is incorrect. It is reiterated that the petitioner has clearly failed to exercise due diligence; and the petitioner is only trying to fill the lacuna in his case which cannot be permitted as per law.

5. It is submitted by learned counsel for respondents No.1 and 2 that in any event, Jamabandi is only a presumption and rebuttable. It is open for the petitioner to take advantage of the ostensible admission made by respondents No.1 and 2 in their written statement (Annexure P6). It is accordingly, reiterated that by way of additional evidence, the petitioner only seeks to fill up the lacuna in his case and that the petitioner has to show as to why the said evidence was not produced at the initial stage. It is also submitted that respondent No.5 is not represented before this Court.

6. Learned counsel for the petitioner clarifies that respondent No.5 is ex-parte even before the learned trial Court.



7. No other argument is made on behalf of the parties.
8. I have heard learned counsel and perused the case file in great detail. I have given my thoughtful consideration to the rival submissions made on behalf of the parties.
9. No doubt, it was upon the petitioner to produce the evidence now sought to be produced, at the stage of his evidence in affirmative. However, as has been pointed out by learned counsel for the petitioner, no occasion arose for the same as it had been admitted by the respondents No.1 and 2 in their written statement (Annexure P6) that suit land was ancestral in nature. Further, given the nature of dispute between the parties, the said additional evidence sought to be produced by the petitioner shall have a bearing on the crux of the issue at hand and will be required for proving the nature of land as ancestral/coparcenary/or otherwise. That being so, the petitioner cannot be denied the opportunity to produce the same, being necessary for the proper adjudication of the matter.
10. Contention of the respondents that provision of Order 18 Rule 17A stood omitted in 1999 cannot be disputed. However, the present application (Annexure P3) has been filed under Section 151 CPC under which vast powers have been assigned to the Court to permit additional evidence if required. In any event, in this regard, reference may be made to judgment of this Court in **Jai Parkash v. Shamlat Deh Hasab Rasad Kabza, (P&H) : Law**



**Finder Doc ID # 1021853, decided on 28.02.2018**, wherein in identical circumstances, this Court had held as follows: -

*“Civil Procedure Code, 1908 Section 151 Revision petition against the order dismissing the application for producing certified copies of jamabandies - The documents sought to be produced are part of government records and per-se admissible - The documents are not required to be proved by leading any oral evidence - Therefore, the certified copies of the jamabandies for the years 1931-32, 1935-36 and 1945-46 are allowed to be produced in additional evidence - Petition allowed.*

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*4. No doubt, plaintiffs are required to produce their entire evidence while leading their evidence in affirmative except rebuttal evidence, however, the provision for additional evidence although deleted by the statutory amendment, is still available with the court under section 151 of the Code of Civil Procedure. The court in the interest of justice, is entitled to admit documents which would help the court in adjudicating the case in a judicious manner.*

*5. In the present case, the documents sought to be produced are part of government records and per-se admissible. The documents are not required to be proved by leading any oral evidence. No doubt the petitioners have failed to give any cogent reasons, however, the rules of procedure are to help the court in proper adjudication of the case.”*

11. As regards respondent No.5, office report indicates that he stands duly served through his brother, which is valid service. However, he has chosen not to put in appearance before this Court. Moreover, as has



been submitted by learned counsel for the petitioner that respondent No.5 has been proceeded against ex-parte before the learned trial Court, which is not disputed by learned counsel for the respondents.

12. In view of the above, present Revision Petition is **allowed**; and the impugned order dated 10.03.2025 (Annexure P1) is set aside. Keeping in view the fact that the present suit is pending since 2018, it is directed that the petitioner be granted an effective opportunity to lead additional evidence.

13. Pending application(s) if any also stand(s) disposed of.

**10.09.2025**

Sunena

**(Nidhi Gupta)**

**Judge**

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No