

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****202****CR-6208-2024 (O&M)
Date of decision: 31.07.2025****Rattan Pal Singh since deceased through his LRs****...Petitioner(s)****Vs.****Harpal and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

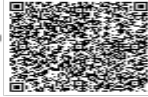
Present:- Mr. Vimal Kumar Gupta, Advocate with
Ms. Palak Bhardwaj, Advocate for the petitioner.

Mr. Anil Kumar Rana, Advocate for respondent No.1.

NIDHI GUPTA, J.

Present Civil Revision Petition under Article 227 of the Constitution of India has been filed by plaintiff No.3 to set aside the impugned order dated 13.08.2024 passed by the Ld. Civil Judge (Jr. Divn), Gurugram (Annexure P-4) in Civil Suit 1031 of 2016 titled as "Ghisa Ram and others Vs Harpal Singh"; whereby application filed by the petitioner for additional evidence, has been dismissed.

2. Learned counsel for the petitioner *inter alia* submits that the learned Civil Judge was in patent error in dismissing the application for the petitioner for additional evidence as it failed to appreciate that the said evidence is crucial for the proper adjudication of the matter. It is submitted that while passing the impugned order, the learned Court below has not considered that as per the Indian Evidence Act, it is necessary to examine



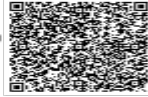
the witnesses who had attested the Will. It is submitted that without examining the witnesses, Will cannot be proved. Only attesting witness can explain the medical condition of the testator at the time of executing of the Will and as to whether he was of sound and disposing mind at that time. It is submitted that keeping in view these facts, the application of the petitioner could not have been dismissed. It is submitted that although the plaintiffs had apprised previous counsel regarding the evidence now sought to be adduced, however the previous counsel had failed to do so. It is contended that the plaintiffs cannot be made to suffer for any omission on the part of previous counsel.

3. It is accordingly prayed that the present Civil Revision be allowed; and the impugned order be set aside.

4. *Per contra*, learned counsel for respondent No.1 opposes prayer made on behalf of the petitioner and submits that impugned order has been passed after taking into consideration the entire facts and circumstances of the case. It is submitted that impugned order suffers from no error and the present application has been filed by the petitioner only with a view to further delay the process of trial.

5. Learned counsel for respondent No.1 places reliance upon the judgment passed by a Coordinate Bench of this Court in **Ram Pal v. Saraswati Kunj Co-op. House Building Society Ltd (P&H) : Law Finder Doc Id # 605258**, wherein it is held as under:-

*“Civil Procedure Code, 1908, Order 6, Rule 17 -
Additional Evidence sought to be produced after closing of*



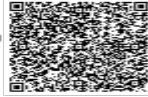
evidence of both the parties, alleging that previous lawyer was negligent in perusing the case - Trial court rightly observed that the evidence, sought to be produced was in the knowledge of the plaintiff since the very beginning - Therefore, the application was rightly rejected - Revision petition dismissed."

6. Learned counsel for respondent No.1 further places reliance upon the judgment of Coordinate Bench of this Court in **Chand Singh v. Naranjan Singh (Punjab and Haryana) : Law Finder Doc Id # 407811**; that: -

"Civil Procedure Code, 1908 - Additional Evidence - Plaintiff's evidence was closed by the order of court - Said order was never challenged by plaintiff by filing any revision petition against the same - Now by making this application for additional evidence, plaintiff cannot set at naught the said order - His application for additional evidence was rightly dismissed."

7. Ld. counsel further places reliance upon the judgment passed by a Coordinate Bench of this Court in **Jagsir Singh v. Malkit Singh (P&H) : Law Finder Doc Id # 604754**; wherein it is held as under:-

"Civil Procedure Code, 1908, Order 18, Rule 17A - Application for additional evidence filed when the case was fixed for rebuttal evidence and arguments - Petitioner was throughout negligent in pursuing his cause - Suit property was ancestral - No issue regarding nature of the suit property was framed, nor any necessary steps were taken to get framed any such additional issue - Evidence was closed by court order, which was allowed to attain finality - Held that, at this belated stage and in the absence of any issue regarding nature of the property, petitioner cannot be permitted to lead additional evidence in that regard - Revision petition dismissed."



8. He accordingly prays for dismissal of the present Civil Revision Petition.

9. No other argument is raised on behalf of the parties.

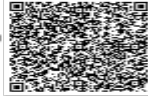
10. I have heard learned counsel and perused the case file in great detail. I find no merit in the submissions made on behalf of the petitioner.

11. Plaintiffs (petitioner and performa respondents herein) had filed a suit for declaration and permanent injunction on 16.05.2016 (Annexure P-1) against the respondents to the effect that Will No. 171 dated 28.07.1995; and the Will No. 347 dated 17.03.1998; and Mutation No. 7685 dated 27.07.2010 are illegal. A further declaration was sought that the plaintiffs are co-owners and co-sharers in joint possession of suit land.

12. Thereafter, trial had commenced, and evidence of the plaintiffs was closed vide order dated 02.03.2019. It is to be noted that this order was not challenged by the petitioner/plaintiffs.

13. It is the case of the plaintiffs that later on, they came to know that it is necessary to examine the witness, who had attested Will No. 311 dated 10.07.2007. Accordingly, at this stage, plaintiffs moved present application dated 11.01.2021 (Annexure P-2) for permission to lead additional evidence. Vide the impugned order dated 13.08.2024 (Annexure P-4), the said application of the petitioner has been dismissed.

14. I find no error in the impugned order as admittedly the suit is of the year 2016; whereas present application was moved by the plaintiffs on 11.1.2021. In the intervening period, in respect of the Will No. 311 dated 10.07.2007, the petitioner/plaintiffs got examined 4 witnesses; and despite

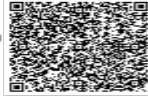


availing several opportunities, they had failed to close their evidence. As such, same was closed by Court vide order dated 02.03.2019. Present application has been moved almost 2 years thereafter. Moreover, order dated 02.03.2019 closing evidence of the plaintiffs has not been challenged by the petitioner.

15. Even further, Will No. 311 dated 10.07.2007 is subject matter of challenge in the present suit. Despite that, plaintiff has failed to get attesting witnesses examined. The alleged evidence now sought to be produced by the plaintiffs was well within knowledge of the plaintiffs from the beginning. The plaintiffs were not vigilant of their rights in this regard. Even for the sake of argument, submission of the petitioner to the effect that previous counsel had failed to lead necessary evidence, is taken to be correct, even then plaintiffs were required to exercise due diligence. It is not the case of the plaintiffs that he was not aware of the Will No. 311 dated 10.07.2007 or the attesting witnesses thereof, namely, Maan Singh son of Hardwari and Bharat Singh, Numberdar. Clearly therefore, no due diligence was exercised by the plaintiffs.

16. Besides the uncontroverted case law cited by learned counsel for respondent no.1, reference may also be made to recent judgment of the Delhi High Court in ***Moddus Media Pvt. Ltd. v. M/s. Scone Exhibition Pvt. Ltd., (Delhi) : Law Finder Doc Id # 887148*** holding that:

“11. The litigant owes a duty to be vigilant of his rights and is also expected to be equally vigilant about the judicial proceedings pending in the court of law against him or



initiated at his instance. The litigant cannot be permitted to cast the entire blame on the Advocate. It appears that the blame is being attributed on the Advocate with a view to get the delay condoned and avoid the decree. After filing the civil suit or written statement, the litigant cannot go off to sleep and wake up from a deep slumber after passing a long time as if the court is storage of the suits filed by such negligent litigants. Putting the entire blame upon the advocate and trying to make it out as if they were totally unaware of the nature or significance of the proceedings is a theory put forth by the appellant/applicant/defendant company, which cannot be accepted and ought not to have been accepted.”

17. In these circumstances, no ground is made out to interfere in the impugned order.

18. The present Civil Revision Petition is accordingly **dismissed**.

19. Pending application, if any, stands disposed of.

31.07.2025

Divyanshi

**(NIDHI GUPTA)
JUDGE**

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