



**CR No. 7002 of 2025 (O&M)**      **1**

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

**121**

**CR No. 7002 of 2025 (O&M)  
DATE OF DECISION :- 30.09.2025**

**Pankaj Kalia**

**...Petitioner**

**Versus**

**Harbhajan Singh and others**

**...Respondents**

**CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL**

**Present:-** Mr. Sanjeev Kumar, Advocate for the petitioner.

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**VIRINDER AGGARWAL, J. (Oral)**

1.           The civil revision is filed under Article 227 of the Constitution of India assailing the order dated 10.09.2025 passed by learned Civil Judge (Junior Division), Gurdaspur whereby the application filed by respondent for additional evidence has been allowed.

2.           Vide this application respondent-plaintiff has sought permission to prove on record map by examining draftsman and Halqa Patwari and mutations No. 6341, 6342 and 6258 with amended site plan of mutation. The application was moved on the grounds that applicant-plaintiff inadvertently closed the evidence without examining the witnesses and it would be helpful for the Court to arrive at correct decision. The learned Civil Judge allowed the application on the grounds that grounds mentioned in the application seems to be genuine and every party should be given proper opportunity to prove his case by leading his evidence. The order has been assailed on the grounds that respondent has got sufficient opportunities to lead his evidence and he himself has closed his evidence and once evidence is closed the Court



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has no jurisdiction to re-open the same except under Order XVIII Rule 17 of CPC or Order VII Rule 14 of CPC for limited purpose. They resort to residuary provision under Section 151 CPC is impermissible and that additional evidence cannot be allowed to fill up lacuna in the evidence as has been held by Hon'ble Apex Court in the case of '***K.K. Velusamy vs. N. Palanisamy, 2011 (11) SCC 275.***

3.            Learned counsel has further contended that Section 151 CPC is meant to prevent the abuse of process and to meet ends of justice and that the inherent powers of the Court cannot be invoked to circumvent the procedural law once evidence is closed.

4.            I have heard learned counsel for the petitioner and gone through the file carefully.

5.            The authority relied upon by the petitioner pertains to provisions of Rule 17 of Order XVIII of CPC with regard to power of the Court to recall the witness. The same reads as under :-

*"The Court may at any stage of a suit recall any witness who has been examined and may (subject to the law of evidence for the time being in force) put such questions to him as the Court thinks fit."*

Rule 17 of Order XVIII of CPC deals with the power of the Court, wherein Court requires any explanation from any witness in order to effectively adjudicate the matter and the Hon'ble Apex Court has categorically laid down in ***K.K. Velusamy versus N.Palanisamy*** (supra) that inherent power of the Court under Section 151 of CPC is not affected by the express power conferred on the Court under Order XVIII Rule 17 of CPC. The relevant portion of the judgment reads as under:-



*“This inherent power of the Court is not affected by the express power conferred upon the Court under Order 18 Rule 17 of the Code to recall any witness to enable the Court to put such question to elicit any clarifications. The power to recall any witness under Order 18 Rule 17 can be exercised by the Court either on its own motion or on an application filed by any of the parties to the suit requesting the Court to exercise the said power. The power is discretionary and should be used sparingly in appropriate cases to enable the Court to clarify any issue or doubt it may have in regard to the evidence led by the parties by recalling any witness so that the court itself can put question and elicit answers. Once a witness is recalled for purposes of such clarification, it may, of course, permit the parties to assist it by putting some questions. However, this power is not intended to be used to fill up omissions in the evidence of a witness who has already been examined. Order 18 Rule 17 is not a provision intended to enable the parties to recall any witnesses for their further examination-in-chief or cross-examination or to place additional material or evidence which could not be produced when the evidence was being recorded.”*

6. Consequently, in view of the findings of the Apex Court, most of the authorities pertaining to the provisions of Order XVIII Rule 17 of CPC relied upon by the petitioner are distinguishable. Hon’ble Apex Court has summarized the scope of power of the Court under Section 151 of CPC in ***K.K. Velusamy versus N.Palanisamy*** (supra) as under:-

*“The scope of Section 151 has been explained by this Court in several decisions which can be summarised as follows:*

*(a) Section 151 is not a substantive provision which creates or confers any power or jurisdiction on courts. It merely recognizes the discretionary power inherent in every court as a necessary corollary for rendering justice in accordance with law, to do what is ‘right’ and undo what is ‘wrong’, that is, to do all things necessary to secure the ends of justice and prevent abuse of its process.*

*(b) As the provisions of the Code are not exhaustive, section 151 recognizes and confirms that if the Code does not expressly or impliedly cover any particular procedural aspect, the inherent power can be used to deal with such situation or aspect, if the ends of justice warrant it. The breadth of such*



*power is co-extensive with the need to exercise such power on the facts and circumstances.*

*(c) A Court has no power to do that which is prohibited by law or the Code, by purported exercise of its inherent powers. If the Code contains provisions dealing with a particular topic or aspect, and such provisions either expressly or necessary implication exhaust the scope of the power of the court or the jurisdiction that may exercised in relation to that matter, the inherent power cannot be invoked in order to cut across the powers conferred by the Code or a manner inconsistent with such provisions. In other words the court cannot make use of the special provisions of [Section 151](#) of the Code, where the remedy or procedure is provided in the Code.*

*(d) The inherent powers of the court being complementary to the powers specifically conferred, a court is free to exercise them for the purposes mentioned in [Section 151](#) of the Code when the matter is not covered by any specific provision in the Code and the exercise of those powers would not in any way be in conflict with what has been expressly provided in the Code or be against the intention of the Legislature.*

*(e) While exercising the inherent power, the court will be doubly cautious, as there is no legislative guidance to deal with the procedural situation and the exercise of power depends upon the discretion and wisdom of the court, and the facts and circumstances of the case. The absence of an express provision in the code and the recognition and saving of the inherent power of a court, should not however be treated as a carte blanche to grant any relief.*

*(f) The power under [section 151](#) will have to be used with circumspection and care, only where it is absolutely necessary, when there is no provision in the Code governing the matter, when the bona fides of the applicant cannot be doubted, when such exercise is to meet the ends of justice and to prevent abuse of process of court.*

7. The documents which respondent-plaintiff is allowed to be proved by way of additional evidence are mutations and copy of amended site plan along with mutation which is official record and cannot be manipulated and as regards site plan is concerned, the same is also on record



and it will definitely help the Court in arriving at the just conclusion and to effectively dispose of the litigation between the parties. No doubt in the case of '*K.K. Velusamy versus N.Palanisamy*' (supra) the Hon'ble Apex Court has cautioned with regard to routine use of Section 151 CPC and that it has to be used if the application is found to be bonafide where additional evidence would assist the Court to clarify the evidence on the issues and will assist in rendering justice and while allowing the application in the present case the learned Civil Judge has categorically recorded that the grounds mentioned in the application seems to be genuine. So the Court has allowed the application as it would help the Court in effectively deciding the matter.

8. So the learned Civil Judge has not exercised the jurisdiction in perverse manner and has not committed any material illegality or irregularity warranting interference by this Court. As such, finding no merits in the revision petition, the same stands dismissed.

9. Since the main appeal/petition stands decided, the miscellaneous application(s), if any, stand disposed of accordingly.

**(VIRINDER AGGARWAL)**  
**JUDGE**

**30.09.2025**

*P.Singh*

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No