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

**CR-5606-2024 (O&M)**

**Date of Decision : 18.08.2025**

PHOOL SINGH

.... Petitioner

VERSUS

SALINDER KAUR

.... Respondent

**CORAM : HON'BLE MRS. JUSTICE ALKA SARIN**

Present : Mr. Namit Khurana, Advocate for the petitioner.

Mr. Fateh Saini, Advocate for the respondent.

**ALKA SARIN, J. (ORAL)**

1. The present revision petition has been filed challenging the order dated 16.09.2024 (Annexure P-4) passed by the learned Additional Civil Judge (Senior Division), Indri, Karnal whereby the application filed by the plaintiff-petitioner herein for leading additional evidence had been dismissed.

2. Brief facts relevant to the present *lis* are that the plaintiff-petitioner herein filed a suit for declaration and joint possession with consequential relief of permanent injunction. In para No.7 of the plaint it was specifically stated that the plaintiff-petitioner had been cultivating the land with the help of his sons and was managing the affairs of the said land. In the written statement filed by the defendant-respondent, in response to para No.7 of the plaint on merits, it was stated that the defendant-respondent was in actual physical possession of the suit property without any

interruption from any corner. Subsequently, DW-2, namely Baljit Kumar, stepped into the witness box during the course of evidence led by the defendant-respondent wherein he stated that he is in possession of the suit property as the same had been leased out to him. In rebuttal, a receipt bearing No.15621 was tendered as Ex.P19 which pertains to the police complaint filed by the plaintiff-petitioner. Thereafter, an application for leading additional evidence was filed as the plaintiff-petitioner wanted to tender in evidence the certified copies of the police complaint, final report and the statement of the witnesses which he has now received under the Right to Information Act, 2005. Vide the impugned order dated 16.09.2024 the said application was dismissed. Hence, the present revision petition by the plaintiff-petitioner.

3. Learned counsel for the plaintiff-petitioner would contend that there is no averment in the written statement that the property had been given on lease to Baljit Kumar, who stepped into the witness box as DW-2 hence there was no occasion for the plaintiff-petitioner to have led any evidence qua the same. Infact, it was a categoric stand taken by the defendant-respondent that the defendant-respondent was in possession of the suit property and in view thereof there was no requirement for leading any further evidence. However, when DW-2 Baljit Kumar stepped into the witness box, he stated that the property in dispute had been given to him on lease, therefore, the necessity to produce the said documents. It is further the contention of the learned counsel that the said documents were earlier not

available however the receipt pertaining to the police complaint was tendered in rebuttal as Ex.P19.

4. *Per contra* learned counsel for the defendant-respondent would contend that the police complaint was filed by the plaintiff-petitioner on 17.06.2023 and the plaintiff-petitioner closed his evidence on 26.04.2024 and therefore the application for additional evidence ought to have been filed earlier and not at the stage of rebuttal and arguments. In support of his arguments, learned counsel for the defendant-respondent has relied upon the judgments passed in **Ant Ram @ Itwara V/s Roshan [2024 (2) RCR (Civil) 520]** and **Parmod Kumar V/s Bhagat Singh [2018 (4) PLR 741]**.

5. Heard.

6. In the present case the stand taken by the defendant-respondent in his written statement was that he is in possession of the suit property however, contrary to the stand taken in the written statement and without having made any averment in the written statement, evidence was led qua possession of Baljit Kumar. DW-2 Baljit Kumar stated in his examination in chief that he was in possession of the suit property as the property had been given to him on lease. The argument of the learned counsel for the defendant-respondent that the plaintiff-petitioner was well aware since he had filed the complaint on 17.06.2023 hence the evidence ought to have been led in the affirmative deserves to be rejected. There was no occasion for the plaintiff-petitioner to have led this evidence in the affirmative in the absence of any pleadings in the written statement regarding the property in dispute having been leased out to Baljit Kumar DW-2. The said evidence

came on the record during the course of evidence led by the defendant-respondent. Once the said evidence was produced by the defendant-respondent, the plaintiff-petitioner was well within his rights to lead additional evidence qua which receipt pertaining to the complaint had already been tendered in rebuttal as Ex.P19.

7. The judgment relied upon by the learned counsel for the defendant-respondent would not come to his aid as it is not the case where the evidence was to be led in affirmative by the plaintiff-petitioner. Had a stand been taken in the written statement by the defendant-respondent that Baljit Kumar DW-2 was in possession of the suit property as lessee then the evidence had to be led in the affirmative. However, in the absence of any such averment in the written statement, the evidence could not have been possibly led in the affirmative.

8. In view of the above, the present revision petition is allowed and the impugned order dated 16.09.2024 (Annexure P-4) is set aside. The application (Annexure P-3) for leading additional evidence is accordingly allowed. Pending applications, if any, also stand disposed off.

**18.08.2025**  
*Aman Jain*

**(ALKA SARIN)**  
**JUDGE**

*NOTE: Whether speaking/non-speaking: Speaking*  
*Whether reportable: Yes/No*