



CR-3659-2017 (O&M)

Leelawanti (deceased) thr her LRs and anr.

. . . . Petitioners

Vs.

Om Parkash (deceased) thr his LRs and ors.

. . . Respondents

Reserved on: 04.02.2026

Pronounced on: 06.02.2026

Pronounced fully/operative part: Fully

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Argued by:- Mr. Raghav Sharma, Advocate
for the petitioners.

Mr. Vivek Singla, Advocate for
respondent Nos.9 to 11, 12(i, iii, viii, a and b).

DEEPAK GUPTA, J.

The petitioners herein are the plaintiffs in Civil Suit No. 3964 of 2013, titled "*Leelawanti and another v. Om Parkash and others*", pending before the learned Civil Judge (Junior Division), Kurukshetra. They have invoked the revisional jurisdiction of this Court to assail the order dated 05.05.2017 (*Annexure P-3*), whereby their application under Section 151 CPC seeking permission to adduce additional evidence was dismissed.

2. A perusal of the record reveals that the petitioners, who are daughters of Smt. Bholi, instituted the suit in April 2013, seeking declaration and possession to the effect that various sale deeds, exchange deeds, mortgages, mutations and compromises executed between the years 1964 to 1972, detailed in the plaint, are null, void, illegal and not binding upon their rights. Consequential relief of permanent injunction restraining the defendants from alienating or creating encumbrance over the suit property was also sought.

3. The defendants contested the suit. Issues were framed, and both parties led their respective evidence. After the closure of evidence, the case was listed for rebuttal/arguments.



4. At that advanced stage, the petitioners moved an application under Section 151 CPC, pleading that while preparing for arguments, certain documents were shown to their counsel, namely:

- (i) a certified copy of a sale deed dated 5.6.1970 pertaining to land measuring 21 Kanal 7 Marla allegedly sold to Ram Kishan, brother of defendant No.1; and
- (ii) a certified copy of a lease deed dated 27.02.1964 relating to land measuring 164 Kanal 11 Marla.

5. It was pleaded that these documents were material to establish that the land in question had been mortgaged/leased and that the impugned sale deeds were fraudulent. It was further asserted that these documents were 30 years old, certified copies, admissible in evidence, and that their production would not prejudice the defendants.

6. The said application was opposed by the defendants. The learned Trial Court, vide a detailed order dated 05.05.2017, dismissed the application, holding that the same was belated, lacked due diligence and was intended to fill up lacunae.

7. Assailing the impugned order, learned counsel for the petitioners contends that the documents sought to be produced are certified copies of old documents, which go to the root of the controversy, and that the Court possesses ample inherent powers under Section 151 CPC to permit additional evidence in the interest of justice. Reliance is placed upon ***K.K. Velusamy v. N. Palanisamy, AIR 2011 SC 1000***, and ***Rukaiyabibi Ahmed Ali Ismail and ors. v. Musa Ismail Mahmed Khusal and ors., (2015) 3 SCC 677***.

8. Per contra, learned counsel for the respondents submits that the petitioners had already closed their evidence in affirmative on 30.01.2017. It is further pointed out that after closure of evidence of both sides, the petitioners had earlier moved an application to produce the same documents during rebuttal evidence, which was dismissed by the Trial Court vide order dated 29.03.2017. This material fact, it is argued, has been deliberately concealed by the petitioners in the present proceedings. It is contended that the present ap-



plication is nothing but an attempt to re-open the entire case and fill up lacunae, which is impermissible.

9. This Court has heard learned counsel for the parties and has carefully examined the record.

10. At the outset, it is significant to note that the petitioners had earlier moved an application seeking permission to produce the same documents during rebuttal evidence, which stood dismissed by the Trial Court on 29.03.2017. This fact has not been disclosed either in the application under Section 151 CPC, or in the present revision petition, or during the course of arguments on behalf of the petitioners. It is only upon a specific reference by learned counsel for the respondents that the said order was brought to the notice of this Court.

11. The concealment of such a material fact disentitles the petitioners to any discretionary relief. A litigant approaching the Court is expected to come with clean hands, and suppression of material facts by itself is a valid ground to decline relief.

12. Even otherwise, the application under Section 151 CPC does not satisfy the fundamental requirement of due diligence. The law is well settled that additional evidence can be permitted only when the party seeking to adduce such evidence establishes that despite exercise of due diligence, the evidence was not within its knowledge or could not be produced earlier.

13. In the present case, the petitioners have not pleaded that the documents were not within their knowledge. On the contrary, the application itself suggests that the documents were already in their possession and were merely shown to the counsel at the stage of preparation of arguments. The application is conspicuously silent as to when and how the petitioners came into possession of these documents.

14. The distinction between rebuttal evidence and additional evidence is well recognized. Rebuttal evidence relates to issues already pleaded and for which the right to rebut has been reserved. Additional evidence, on the other



hand, is permissible only upon strict satisfaction of the test of due diligence. In the present case, the petitioners fail on both counts. 2026:PHHC:017813

15. The reliance placed by learned counsel for the petitioners on K.K. Velusamy (*supra*) is misplaced. In the said judgment, the Hon'ble Supreme Court clearly held that though the Court has inherent power to permit additional evidence, such power must be exercised sparingly and not to cover up negligence or fill lacunae. The Court further held that if an application is found to be mischievous or intended only to delay proceedings, it ought to be rejected.

16. Similarly, in *Rukaiyabibi Ahmed Ali Ismail (supra)*, the Supreme Court reiterated that additional evidence cannot be permitted as a matter of course and that the discretion must be exercised judiciously. The facts of the present case do not bring it within the permissible parameters laid down in the aforesaid judgments.

17. The learned Trial Court has rightly observed that permitting the petitioners to adduce the documents at this belated stage would virtually amount to re-opening the entire trial, causing serious prejudice to the defendants and defeating the mandate of expeditious disposal of civil litigation.

18. The impugned order does not suffer from any illegality, perversity or jurisdictional error. It is a well-reasoned discretionary order, passed upon correct appreciation of facts and settled legal principles. Interference in revisional jurisdiction is, therefore, unwarranted.

19. Consequently, finding no merit, the present revision petition is dismissed. Pending application(s), if any, also stand disposed of.

(DEEPAK GUPTA)
JUDGE

06.02.2026

Neetika Tuteja

Whether speaking/reasoned?
Whether reportable?

Yes/No
Yes/No

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