IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CMPMO No. 369 of 2022
Reserved on : 09.03.2026
Date of Decision:20.03.2026

Kuldeep Chand & others ...Petitioners.

Versus

Pritam Chand .....Respondent.

Coram
Hon'ble Mr. Justice Romesh Verma, Judge.
Whether approved for reporting?[1]

For the petitioners: Mr. Neeraj Gupta, Senior Advocate with Mr. Ajeet Pal Singh, Advocate.

For the respondent: Mr. Ajay Sharma, Senior Advocate with Mr. Atharv, Advocate.

Romesh Verma, Judge

The present petition arises out of the order dated 02.07.2022, passed by the learned Additional District Judge-III, Kangra at Dharamshala, District Kangra, H.P., whereby application filed by the respondents under Order 41 Rule 27 read with Section 151 CPC has been allowed.

2. The brief facts of the case are that the respondent-plaintiff filed a suit in the Court of learned Civil Judge (Jr. Div.), Baijnath, District Kangra, H.P. on 19.05.2011. As per the averments made in the plaint, it was

[1] Whether reporters of Local Papers may be allowed to see the judgment?

stated that he is joint owner in possession of the suit land comprised in Khata No. 41, Khatauni No. 50, Khasra Nos. 206, 293, 342, 428/374 and 429/374 Kita-5, measuring 0-37-90 hects its ½ share being equal to 0-18-95 hects situated at Mohal Jamrela, Mauza and Tehsil Baijnath, District Kangra, H.P., as per Jamabandi for the year 2007-08 and the mutation No. 118 dated 26.12.2006, which has been wrongly sanctioned and attested in favour of defendants showing them to be the sole owners in possession of the suit land, be declared as null and void, not binding upon him, being sanctioned at his back.

3. The plaintiff also sought relief of declaration and further for injunction, restraining the defendants from changing the nature, taking forcible possession, alienating the suit land in any manner whatsoever.

4. It was further averred by the plaintiff that he alongwith defendants and other co-owners is in possession of the suit land to the extent of ½ share but defendants never claimed themselves as tenant through any other co-owner, but they in connivance with the revenue staff got sanctioned mutation No. 118 on 26.12.2006 under Section

104(3) of H.P. Tenancy and Land Reforms Act, thereby declaring themselves to be as absolute owners in possession of the suit land.

5. It was further averred that no notice was ever received by him and defendants on 18.04.2011 threatened to dispossess the plaintiff from the suit land, which is in his possession and when he requested them to admit his case, the defendants proclaimed that they have become owners of the suit land by spending a sum of Rs. 16,000/-. Therefore, the plaintiff filed suit seeking declaration and injunction.

6. The defendants contested the suit by filing written statement wherein they took preliminary objections with regard to cause of action, locus standi, maintainability, valuation, limitation, misjoinder/non-joinder of necessary parties and suppression of material facts.

7. It was averred that Mangta Ram was recorded as Bazate Baniz Maroosi Digar Hisadaran and all the owners were aware about the said fact and after the death of said Mangta, the defendants inherited the suit land and mutation No. 118 to this effect has been sanctioned in their favour. It

was admitted that the plaintiff is a co-owner but his status is totally different and it is he who got entry changed with respect to Khasra No. 303 in the revenue record and he never remained in possession over the suit land. Earlier, the plaintiff had also filed suit against some of the defendants which was dismissed. Plaintiff had also filed an application for correction of revenue entries before Tehsildar which was dismissed on 15.03.2000 and then filed Civil Suit bearing No. 5/98 on 23.03.1998 with respect to Khasra No. 295, which was also dismissed on 15.1.2000. Thereafter, the plaintiff filed another Civil Suit No. 69/04 on 30.06.2004 with respect to khasra No. 295, which was also dismissed on 24.12.1995. The plaintiff was very much aware about the revenue entries and the same are binding upon the parties. Therefore, the defendants sought the dismissal of the suit filed by the plaintiff.

8. Learned Trial Court framed issues on 09.09.2011 in the following manners:

> 1. Whether the plaintiff is joint owner in possession of land comprised in khata No.41, khatauni No.50, khasra No.206, 293, 342, 428/374 &429/374, kita-5 measuring 0-37-90 hects situated at Mohal Jamrela

Mauza and Teh. Baijnath, Distt. Kangra, H.P., as alleged ? OPP

2. Whether the mutation No.118 dated 26.12.06 has wrongly been sanctioned and attested in favour of the defendants showing them to be the sole owners in possession of the suit land, as alleged ? OPP

3. Whether the plaintiff is entitled for relief of permanent injunction, as prayed for OPP

4. Whether the plaintiff has no cause of action, as prayed for ? OPP

5. Whether the plaintiff has no locus standi to sue ? OPD

6. Whether the suit of the plaintiff is no maintainable? OPD

7. Whether the plaintiff has not come to the court with clean hands ?OPD

8. Whether the suit of the plaintiff is not properly valued for the purpose of court fee and jurisdiction ? OPD

9. Whether the suit is not within limitation ? OPD

10. Whether the suit is bad for non joinder and mis-joinder of necessary parties ?OPD

11. Relief.

9. Learned trial Court vide its judgment and decree dated 18.09.2012 dismissed the suit as preferred by the plaintiff/respondent.

10. Feeling dissatisfied the respondent preferred an appeal before the learned Appellate Court on 10.06.2013. The appeal as preferred by the respondent was time barred, therefore, separate application under Section 5 of Limitation Act was filed for condonation of delay, which was allowed on 25.03.2015. During pendency of the appeal, the respondent filed an application under Order 41 Rule 27 read with Section 151 of CPC for producing additional evidence i.e registered sale deed dated 23.08.1971 in respect of suit land executed by Saraswati Devi and others in faovur of father of appellant(Neeru) and predecessor of respondent (Mangat Ram), sale deed dated 26.10.1970 in respect of suit land executed by Seru Ram in favour of father of the appellant and predecessor in interest of Mangtu, Jamabandi for the year 1967-68 of Khata No.6 of Tikka Jamrella, Mauja Baijnath, Jamabandi for the year 1967-68 of Khata No. 7 of Tika Jamrella, Mauja Baijnath and Misal Hakiyat Bandobast Jadid, on record .

11. It was averred in the application that both the parties are owners, which fact has been denied by the present petitioners. It is averred that Neeru @ Narain and Mangtu both were sons of Khodlu and were real brothers. Both were living together and purchased suit land vide registered Sale Deed dated 23.08.1971 and 26.10.1970 on the basis of jamabandi 1967-68 and became owners. The said sale deeds are more than 30 years old and are therefore, per se admissible in evidence.

12. Further averred that entries were wrongly changed during settlement without there being any order of competent Court or officer and, therefore, the appellant/plaintiff intends to produce the above said sale deeds and Jamabandies. It was averred that the sale deeds were not traceable earlier and same have been traced out recently and were not within the knowledge of the appellant/applicant and therefore, could not be produced earlier despite the exercise of due diligence. The Jamabandi sought to be produced now would connect the suit land with the sale deed and the present Khasra Numbers. Therefore,

the aforesaid documents are very essential and material for the just and correct decision of the case.

13. The said application filed under Order 41 Rule 27 read with Section 151 CPC was contested by the present petitioners by filing reply. It was submitted that the application is not maintainable and the same is malafide and has been filed just to delay the proceedings in the matter. It was stated in the reply that documents sought to be produced by way of additional evidence are immaterial and are not relevant to decide the controversy between the parties. A new case is sought to be made out which is not pleaded. The documents sought to be produced are not perse admissible nor the same are required as per the pleaded case of plaintiff. The plaintiff cannot take the advantage of his own negligence in proving his case when the evidence was led. There is no due diligence exercised by the applicant. The sale deeds were available with the applicant and the parcha jamabandis were also available and within the knowledge of applicant. The applicant remained negligent in producing the documents. The case was decided by the lower Court in the year 2012 and the

present application is being filed after 10 years. Therefore, the application is barred by delay and laches.

14. The learned First Appellate Court vide its order dated 02.07.2022 allowed the application filed by the respondent under Order 41 Rule 27 subject to cost of Rs. 5000 to be paid to the present petitioners and the respondent was permitted to lead additional evidence to prove the said documents appended with the application. Thereafter, the case was posted for the evidence of the appellant/respondent on 05.08.2022.

15. I have heard Sh. Neeraj Gupta, learned Senior Counsel assisted by Sh. Ajeet Jaswal, Advocate, for the petitioners and Mr. Ajay Sharma, learned Senior Counsel, assisted by Mr. Athrav Sharma, Advocate, for the respondent.

16. Learned Senior counsel for the petitioner submits that the impugned order as passed by the learned First Appellate Court is not sustainable in the eyes of law since it does not fall within the parameters as prescribed under Order 41 Rule 27 read with Section 151 of CPC. Therefore, order passed by learned First Appellate Court is liable to be

set-aside. He further submits that order as passed in favour of the plaintiff/respondent, is a non speaking order and it is not permissible at the stage of the appeal.

17. On the other hand, learned Senior Counsel for the respondent has defended the impugned order passed by the learned First Appellate Court dated 02.07.2022 and he submits that the Court below has rightly allowed the application after appreciating the material placed on record.

18. Admitted facts of the case are that the plaintiff/ respondent had filed a suit for declaration and permanent prohibitory injunction before the Court of learned Civil Judge (Jr. Division), Baijnath, District Kangra, HP on 19-05-2011. It has been averred in the plaint that mutation No.118 dated 26.12.2006 has been wrongly sanctioned and attested in favour of the defendants showing them to be the sole owners in possession of the suit property.

19. On the other hand, the defendants/petitioners have defended the mutation No.118 and it has been categorically submitted that earlier also plaintiff had filed a suit against some of the defendants, which has been

dismissed. It has been submitted that plaintiff had filed an application for correction of the revenue entries before Tehsildar which was dismissed on 15.03.2000 and thereafter plaintiff filed a Civil Suit Nos. 5/98 & 69/04 and said Civil Suits were also dismissed.

20. The learned trial Court, after appreciating the entire oral as well as documentary evidence placed on record, dismissed the suit. The said judgment was passed by the learned Civil Judge (Jr. Division), Baijnath, District Kangra, H.P. on 18.09.2012.

21. The appeal was instituted by the plaintiff/respondent in 2013 and that too, was also time barred. Thereafter, in the year 2022, an application was filed for leading additional evidence on behalf of the plaintiff/respondent. By means of this application, the plaintiff/respondent intended to lead additional evidence by way of following documents:

1. Registered sale deeds
2. Jamabandies.

22. The provisions of under Order 41 Rule 27 CPC reads as follows:-

> "27. Production of additional evidence in Appellate Court.–
>
> (1) The parties to an appeal shall not be entitled to produce additional evidence, whether oral or documentary, in the Appellate Court. But if –
> (a) . . .
> (aa) the party seeking to produce additional evidence, establishes that notwithstanding the exercise of due diligence, such evidence was not within his knowledge or could not, after the exercise of due diligence, be produced by him at the time when the decree appealed against was passed, or
> (b) . . .
> the Appellate Court may allow such evidence or document to be produced, or witness to be examined.
>
> (2) Wherever additional evidence is allowed to be produced by an Appellate Court, the Court shall record the reason for its admission."

23. The provisions are specific and clear and has laid down the parameters for adducing the additional evidence. The first provision of Order 41 Rule 27 (1)(a) states that the additional evidence may be taken in a case, where the Court from whose decree the appeal is preferred has refused to admit evidence which ought to have been

admitted and second provision provides that a party seeking to produce additional evidence must establish that notwithstanding the exercise of due diligence such evidence was not within his knowledge or could not after the exercise of due diligence be produced by him at the time when the decree appealed against was passed. Lastly, additional evidence may also be permitted if the Appellate Court requires any documents to be produced or any witness to be examined in order to enable it to pronounce judgment, or for any other substantial cause.

24. The perusal of the application reveals that primarily, the applicant had filed the application for permission to produce additional evidence on the ground that the sale deeds were not traceable earlier and same have been traced out recently and were not within the knowledge of the plaintiff/respondent, therefore, the same could not be produced earlier despite exercise of due diligence.

25. Further, that the jamabandi sought to be produced now would connect the suit land with the sale deeds and present Khasra numbers.

26. It was never the case of the respondent/plaintiff that the documents, as intended to be produced by way of additional evidence, are to help the court to pronounce the judgment or for any other substantial cause. Perusal of the impugned order shows that the learned First Appellate Court has come to the conclusion that there is no due diligence rather there is gross negligence on the part of the applicant/respondent in not proving the documents, which he now sought to prove by way of the application. The prayer as sought in the application was specifically denied by the learned First Appellate Court and come to the conclusion that the applicant has failed to show due diligence on his part to place on record the said documents. However, the learned First Appellate Court by invoking the provisions of Order 41 Rule 27(1)(b) of CPC allowed the application filed by the plaintiff/ respondent on the ground that documents are very much necessary and goes to the root of the controversy between the parties to prove the title of the parties to the suit land as predecessor-in-interest of the parties have purchased the suit land by way of sale deeds appended with the application and these documents

are though not required to pronounce the judgment, but necessarily required to do complete justice by appreciating the obscure facts on record. Meaning thereby, the learned First Appellate Court came to the conclusion that the documents are not required to pronounce the judgment.

27. In the opinion of this Court the method and the manner as adopted by the learned First Appellate Court, is erroneous. Firstly, the learned First Appellate Court came to the conclusion that there is no due diligence on the part of the plaintiff/ respondent, rather, there is gross negligence on the part of the plaintiff/respondent in not proving the documents which he now sought to prove by way of present application. Without assigning any reason and without explaining what are the circumstances and in what manner, the documents intended to be produced are relevant to decide the controversy in hand. The First Appellate Court has failed to specify what was the evidence before learned Trial Court and what were the documents before the said court and how and in what manner the present documents intended to be proved by way of additional evidence go to the root of the case and how the

said documents will do complete justice as observed by the First Appellate Court.

28. The learned Senior Counsel for the petitioners/ defendants has rightly pointed out that in the present case, suit was filed in 2011 and the same was dismissed on 18.09.2012 by passing a detailed and reasoned judgment. The plaintiff/ respondent suffered the decree on merits after appreciating the oral as well as the documentary evidence placed on record by the learned trial Court. He also submits that in order to nullify the decree, the present application has been filed that too at the stage of the appeal before the learned First Appellate Court. He further submits that though time barred appeal was preferred by the respondent, however, he kept mum for about more than 10 years and thereafter, all of a sudden, he filed application for leading additional evidence in order to prolong the matter unnecessarily. He further submits that the documents, which the plaintiffs intend to place on record are the copy of the sale deed for the year 1971, so it cannot be said that the said documents were not in the knowledge of the plaintiff. The plaintiff intends to place on record old

record, which was within the knowledge of the plaintiff/ respondent.

29. This Court while going through the record has found that there is no explanation in the application that how and in what manner the documents intended to be placed on record by leading additional evidence relates to the controversy in question. Neither in the application nor in the impugned order, it has been specified how all these documents are relevant to decide the issue in hand and how these documents are necessary to do complete justice to the parties. The documents which are more than 50 years ago are being tried to be placed in the present proceedings, which are pending before the First Appellate Court for the last more than 13 years. It seems that the endeavour of the plaintiff/respondent is to drag the litigation endlessly. It has come on the record that the present proceeding is not the only case which the plaintiff has filed but apart from that, earlier also he preferred proceedings before Tehsildar which were dismissed on 15.03.2000. Plaintiff had also filed Civil Suit No. 5/98 which was dismissed on 15.01.2000. Thereafter, plaintiff filed another

Civil Suit No. 69 of 2004 which was dismissed on 24.12.1995. The said conduct of the plaintiff/respondent speaks volume.

30. Coming to the facts of the present case, the First Appellate Court has failed to assign any plausible and cogent reasons as to how the documents intended to be produced by way of additional evidence is required for the effective and proper adjudication of the dispute in question. After holding that there is no due diligence on the part of the plaintiff abruptly in one para the First Appellate Court has assigned reason that in order to do complete justice, the present application is allowed. The First Appellate Court further has held that these documents are though not required to pronounce the judgment but are required to do complete justice by appreciating the obscure facts on record. This Court is of the opinion that the First Appellate Court has failed to assign the reasons for allowing the application.

31. The Hon'ble Apex Court has laid down the parameters for leading additional evidence, in case titled ***Iqbal Ahmed (dead) by LRs & another vs. Abdul***

Shukoor in Civil Appeal No. 10458 of 2010, decided on 22.08.2025, which reads as follows:

> *"8. In our opinion, before undertaking the exercise of considering whether a party is entitled to lead additional evidence under Order XLI Rule 27(1) of the Code, it would be first necessary to examine the pleadings of such party to gather if the case sought to be set up is pleaded so as to support the additional evidence that is proposed to be brought on record. In absence of necessary pleadings in that regard, permitting a party to lead additional evidence would result in an unnecessary exercise and such evidence, if led, would be of no consequence as it may not be permissible to take such evidence into consideration. Useful reference in this regard can be made to the decisions in* ***Bachhaj Nahar Vs. Nilima Mandal and Anr., AIR 2009 SC 1103 and Union of India Vs. Ibrahim Uddin and Anr., (2012) 8 SCC 148.*** *Thus, besides the requirements prescribed by Order XLI Rule 27(1) of the Code being fulfilled, it would also be necessary for the Appellate Court to consider the pleadings of the party seeking to lead such additional evidence. It is only thereafter on being satisfied that a case as contemplated by the provisions of Order XLI Rule 27(1) of the Code has been made out that such permission can be granted. In absence of such exercise being undertaken by the High Court in the present case, we are of the view that it committed an error in allowing the application moved by the defendant for leading additional evidence.*
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> *9. As we have found that the application for leading additional evidence has been considered by the Appellate Court without examining the aspect as to whether the additional evidence proposed to be led was in*

> *consonance with the pleadings of the defendant and whether such case had been set up by him coupled with the fact that the additional evidence taken on record has weighed with it while reversing the decree, the matter requires reconsideration by the High Court. Since we find that the matter requires re-consideration at the hands of the High Court afresh, we have not gone into the aspect of delay in deciding the appeal by the High Court as was urged on behalf of the appellants.*
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> *10. For the aforesaid reasons, we find the judgment under challenge to be unsustainable in law. The appeal requires to be re-considered along with the application filed by the defendant under provisions of Order XLI Rule 27(1) of the Code afresh. Accordingly, the judgment and order dated 30.12.2008 passed in RFA No.440 of 2000 is set aside. The proceedings are remanded to the High Court to reconsider the same afresh in accordance with law. Since the suit was filed in 1997, we request the High Court to expedite the consideration of RFA No.440 of 2000. It is clarified that we have not expressed any opinion on the merits of the matter."*

32. Similarly, the Hon'ble Apex Court, in case titled ***Gobind Singh and others vs. Union of India in Civil Appeal Nos. 5168 & 5169 of 2011***, decided on 09.03.2026, has held as under:-

> ***"11.2.*** *In order to properly appreciate the controversy involved, it is necessary to first advert to the statutory provision applicable to the case at hand. Order XLI Rule 27 of CPC reads as follows:—*

“27. Production of additional evidence in Appellate Court.- (1) The parties to an appeal shall not be entitled to produce additional evidence, whether oral or documentary, in the Appellate Court. But if–

(a) …

(aa) the party seeking to produce additional evidence, establishes that notwithstanding the exercise of due diligence, such evidence was not within his knowledge or could not, after the exercise of due diligence, be produced by him at the time when the decree appealed against was passed, or

(b) …

the Appellate Court may allow such evidence or document to be produced, or witness to be examined.

(2) Wherever additional evidence is allowed to be produced by an Appellate Court, the Court shall record the reason for its admission.”(emphasis supplied)

11.3. *Rule 27, being couched in negative terms, makes it abundantly clear that parties to an appeal are not entitled to adduce additional evidence, whether oral or documentary, save and except in the circumstances expressly enumerated therein. The provision contemplates only three eventualities in which additional evidence may be permitted: first, where the court which passed the decree has refused to admit evidence which ought to have been admitted; second, where the party seeking to adduce such evidence establishes that, notwithstanding the exercise of due diligence, the evidence was not within its knowledge or could not have been produced at the time when the decree under appeal was passed; and third, where the appellate court itself requires any document to be produced or any witness to be examined in order to enable it to pronounce judgment or for any other substantial cause.*

11.4. *Accordingly, it is only upon satisfaction of any of the aforesaid three contingencies that an application under Order XLI Rule 27 of CPC can be entertained. Sub-rule (2) of the said provision further mandates that where the appellate court forms an opinion that additional evidence is required to be admitted, it must record the reasons for such admission. While elucidating the scope and object of Order XLI Rule 27 of CPC, this Court, in Union of India v. Ibrahim Uddin7, undertook an exhaustive analysis of the provision. The relevant extract is reproduced hereinafter:—*

"36. The general principle is that the appellate court should not travel outside the record of the lower court and cannot take any evidence in appeal. However, as an exception, Order 41 Rule 27 CPC enables the appellate court to take additional evidence in exceptional circumstances. The appellate court may permit additional evidence only and only if the conditions laid down in this Rule are found to exist. The parties are not entitled, as of right, to the admission of such evidence.

Thus, the provision does not apply, when on the basis of the evidence on record, the appellate court can pronounce a satisfactory judgment. The matter is entirely within the discretion of the court and is to be used sparingly. Such a discretion is only a judicial discretion circumscribed by the limitation specified in the Rule itself...

38. Under Order 41 Rule 27 CPC, the appellate court has the power to allow a document to be produced and a witness to be examined. But the requirement of the said court must be limited to those cases where it found it necessary to obtain such evidence for enabling it to pronounce judgment. This provision does not entitle the appellate court to let in fresh evidence at the appellate stage where even without such evidence it can pronounce judgment in a case. It does not

entitle the appellate court to let in fresh evidence only for the purpose of pronouncing judgment in a particular way. In other words, it is only for removing a lacuna in the evidence that the appellate court is empowered to admit additional evidence...

41. The words "for any other substantial cause" must be read with the word "requires" in the beginning of the sentence, so that it is only where, for any other substantial cause, the appellate court requires additional evidence, that this Rule will apply e.g. when evidence has been taken by the lower court so imperfectly that the appellate court cannot pass a satisfactory judgment." (emphasis supplied) Thus, a holistic reading of the aforesaid decision makes it clear that the appellate court's inquiry, while considering an application for leading additional evidence, is confined to examining whether such evidence is necessary to remove a lacuna in the case. More importantly, the appellate court may permit additional evidence only upon being satisfied that the conditions expressly stipulated under Order XLI Rule 27 of CPC are fulfilled. The parties do not possess any vested or automatic right to seek admission of additional evidence at the appellate stage. Consequently, the provision has no application where the appellate court is in a position to render a satisfactory and reasoned judgment on the basis of the evidence already available on record.

11.5. *In State of Karnataka v. K.C. Subramanya 8, the appellants therein had moved an application before the appellate court under Order XLI Rule 27 of CPC seeking leave to produce a map of the area to establish that the disputed land constituted a public road. This Court, while affirming the High Court's decision to reject the said application, held as follows:—*

*"**4.** …*

On perusal of this provision, it is unambiguously clear that the party can seek liberty to produce additional evidence at the appellate stage, but the same can be permitted only if the evidence sought to be produced could not be produced at the stage of trial in spite of exercise of due diligence and that the evidence could not be produced as it was not within his knowledge and hence was fit to be produced by the appellant before the appellate forum.

5. It is thus clear that there are conditions precedent before allowing a party to adduce additional evidence at the stage of appeal, which specifically incorporates conditions to the effect that the party in spite of due diligence could not produce the evidence and the same cannot be allowed to be done at his leisure or sweet will." (emphasis supplied) This Court thus categorically held that unless the requirements stipulated under Order XLI Rule 27 of CPC are strictly satisfied, a party cannot be permitted to adduce additional evidence at the appellate stage. Such permission cannot be granted as a matter of course, nor can additional evidence be introduced at the whim or convenience of a litigating party.

***11.6.** Where the appellate court permits additional evidence to be adduced, Order XLI Rule 27(2) of CPC casts a mandatory obligation upon the court to record the reasons for such admission. In Ibrahim Uddin (supra), this Court elucidated the rationale underlying the requirement of recording reasons in the following terms:—*

*"**42.** Whenever the appellate court admits additional evidence it should record its reasons for doing so (sub-rule (2)). It is a salutary provision which operates as a check against a too easy reception of evidence at a late stage of litigation and the statement of reasons may inspire confidence and disarm objection. Another reason of this requirement is that,*

> *where a further appeal lies from the decision, the record of reasons will be useful and necessary for the court of further appeal to see, if the discretion under this Rule has been properly exercised by the court below. The omission to record the reasons must, therefore, be treated as a serious defect. But this provision is only directory and not mandatory, if the reception of such evidence can be justified under the Rule."*
>
> ***11.7.*** *The procedural framework under Order XLI of CPC makes it abundantly clear that an appeal is ordinarily to be decided on the evidence adduced before the Trial Court. The Appellate Court is not expected to embark upon a fresh fact-finding exercise or permit production of additional evidence as a matter of routine. Where the Appellate Court is satisfied that the material already available on record is sufficient to enable it to pronounce judgment, it is well within its jurisdiction to confine its consideration to the evidence forming part of the record of the courts below.*

33. After dismissal of the suit which was filed by the plaintiff/ respondent a right had accrued to the defendant/ petitioners because the suit was dismissed on merits. Now in appeal that too after the lapse of more than 10 years of the pendency of the appeal, the present application has been filed without disclosing any reason. Therefore, the present application which has been filed under Order 41 Rule 27 does not meet the requirement of Order 41 Rule 27 CPC. Therefore, the impugned order which has been

passed by the First Appellate Court requires to be quashed and set-aside.

34. The impugned order does not disclose that how the said documents are relevant for the adjudication of the controversy in question. By invoking the provisions of Order 41 Rule 27 -B, the learned First Appellate Court has not gone into the factual and material aspect of the matter and has allowed the application which is not sustainable in the eyes of law, therefore, the same is ordered to be quashed and set-aside by directing the First Appellat Court to decide the Application under Order 41 Rule 27 of CPC afresh strictly in view of the mandate as laid down in ***Gobind Singh Others vs. Union of India (Supra)*** alongwith the main appeal expeditiously within three months.

35. Parties to remain present before the First Appellate Court on 01.04.2026.

All the pending miscellaneous application(s) if any, shall also stands disposed off.

(Romesh Verma)
Judge

March 20, 2026
(Nisha)