

**In the Court of Rakesh Kumar, Additional Civil Judge (Senior Division),
Sub Division- Barwala, District- Hisar, UID-HR0448.**

Civil Suit No.: 53-CS

CIS No.: CS-37-2026

Date of Institution: 09.08.2019/
12.01.2026

Date of order: **03.07.2026**

Order: Allowed

(APPLICATION FOR ADDITIONAL EVIDENCE)

Present: Sh. Vatan Singh Saini Advocate for plaintiffs.
Sh. Ankur Bansal and Sh. Avinash Bansal Id. counsels for
defendants.

ORDER:

This order of mine shall dispose of an application dated 24.09.2024 for tendering the document i.e. death certificate of Mahender Singh Kanoongo Barwala who got demarcation in the above said case and Jamabandi for the year 2019-2020 by way of additional evidence filed by Id. counsel for applicants-plaintiffs.

2. Shorn of unnecessary details, it has been precisely averred by the applicants/plaintiffs that at the time of evidence, the plaintiffs could not produce the death certificate of Mahender Singh Kanoongo Barwala who got demarcation in the above said case and Jamabandi for the year 2019-2020 and the evidence was closed. Now the applicants-plaintiffs want to tender the above mentioned documents. It is very much essential to produce the above mentioned documents on the case file. Therefore, a prayer has been made for allowing the present application and the plaintiffs be allowed to produce additional evidence.

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3. On notice, ld. counsel for defendants has filed reply taking preliminary submissions by stating that the plaintiffs in the present case have moved the present application under reply to lead additional evidence in support of the evidence already led by the plaintiffs. Following documents are sought to be placed on record by the plaintiffs:-

- A. Death Certificate of Mahender Singh Kanoongo Barwala,
- B. Jamabandi for the year 2019-2020

It is brought to the notice of this Court that the Plaintiffs instituted the present civil suit (hereinafter referred to as **the captioned matter**) against the defendants on 09.08.2019 for seeking declaration and mandatory injunction to the effect that the defendants be directed to pay compensation along with interest as per statutory provisions w.r.t. a piece of land measuring 402.12 sq. yards which is alleged to have been encroached by the defendants. The Plaintiffs had annexed and produced before this Court a Demarcation Report dated 03.12.2017 (wrongly mentioned by the Plaintiffs as 13.12.2017 in the suit) duly prepared by Mahender Singh Kanoongo, Barwala to show that the land had been encroached. It is further brought to the notice of this Court that Defendants No. 1 & 2 (hereinafter referred to as '**the Defendants**') had filed a detailed reply to the plaint on 04.03.2020. Further, it is submitted that the captioned matter was listed for the production of an examination of Plaintiff Evidence. It is submitted that a perusal of the interim orders passed on various dates between 18.08.2021 to 03.10.2023 shows that this

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Court, in the interest of justice, accorded 9 opportunities for bringing entire evidence on record. However, when the Plaintiffs failed to bring any evidence on record, this Court, on 22.11.2023, closed the oral as well as documentary evidence for the Plaintiffs. The relevant orders in support of this submission are dated 19.09.2023, 03.10.2023 and 22.11.2023. Thereafter, after a lapse of almost 1 year, the Plaintiffs filed the present application on 24.09.2024 when the case was listed for rebuttal evidence if any and for arguments. It is further submitted that a perusal of the present application shows that the same is vague as the Plaintiffs have merely pleaded that the aforesaid additional evidence be taken on record whilst no reasons whatsoever have been stated to justify the delay caused in producing the same at the time when ample opportunities were accorded by this Court for the same. The Plaintiffs have pleaded that the documents sought to be produced as additional evidence was not in their knowledge and they exercised due diligence but still could not produce the evidence earlier. Furthermore, it has also not been stated by the Plaintiffs as to how the said additional evidence is relevant/essential for deciding the captioned matter. In case, the present application is allowed, it shall cause injustice and prejudice of an irremediable nature to the Defendants. The present application is not maintainable in its present form as the same does not contain any verification as required under the provisions of Order VI, Rule 15, CPC, nor has any supporting affidavit

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been filed by the Plaintiffs. In view of the foregoing, the present application being bereft of merits is liable to be dismissed. However, it is reiterated that no reason(s) whatsoever has been stated by the Plaintiffs to justify the delay in producing the additional evidence which is sought to be brought on record. It is further submitted that the Plaintiffs have not stated why the said additional evidence is essential for the adjudication of the captioned matter. It is well settled that the additional evidence can be brought on record only if the Plaintiffs prove that they could not produce the same earlier despite exercising due diligence. Hence, the present application is liable to be rejected. Therefore, a prayer has been made for dismiss the present application.

4. Heard learned counsel for the plaintiffs and ld. counsel for defendants and perused the records. This Court is of the considered view that it is not disputed that the documents required i.e. Death Certificate of Mahender Singh Kanungo and Jamabandi for the year 2019-2020 to be tendered in the shape of additional evidence were within the knowledge of the applicants-plaintiffs much prior to the filing of instant application, however, in the interest of justice, the Court has ample power to consider and grant permission to lead additional evidence when the documents sought to be tendered in the shape of additional evidence may be necessary for proper adjudication of the case in hand. Further, if the application in hand is considered, no prejudice shall be caused to the

respondents-defendants as mere giving permission to place on case file any document does not dispense with the mode of proof, therefore, the admissibility of the documents to be tendered in the shape of additional evidence is yet to be adjudicated. Hence, the application in hand stands allowed to the extent, purport and subject of the application.

Pronounced in open court: (Rakesh Kumar)
Dated: 03.07.2026 Additional Civil Judge (Sr. Divn.),
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Note: All the **05** pages of this order have been checked and signed by me.

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Twinkle, SG-II
(Direct dictation)

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