

An attempt to secure a decree behind the back of the true owner is a circumstance that cannot be lightly brushed aside; Passing of an ex-parte decree followed by the expeditious mutation of revenue entries, casts a shadow over the bona fides of the proceedings

The **Supreme Court** in the case of **Govind Singh vs Union of India [Civil Appeal Nos. 5168-5169 of 2011] dated March 09, 2026**, has held that parties to an appeal are not entitled to produce additional evidence as a matter of right under Order XLI Rule 27 of the CPC. The appellate court's discretion to permit additional evidence is to be used sparingly and is limited to cases where it is necessary to pronounce a satisfactory judgment, not to allow a litigant to fill lacunae or cure fundamental defects in their case.

The Apex Court therefore held that an attempt to secure a decree behind the back of the true owner is a circumstance that cannot be lightly brushed aside, and the proximity of events, namely, the passing of an ex-parte decree followed by the expeditious mutation of revenue entries in favour of the appellant-plaintiffs, casts a shadow over the bona fides of the proceedings.

Thus, when the appellant-plaintiffs themselves asserted title on the basis of long and continuous possession through their predecessors, the subsequent attempt to introduce additional evidence at the appellate stage assumes little legal significance, added the Court.

The Court also explained that an application to adduce additional evidence at the appellate stage cannot be used to fortify a claim that is fundamentally flawed from its inception, such as one based on a prior decree that is not binding on the opposing party. If the appellate court can render a satisfactory judgment on the basis of the evidence already on record, the application for additional evidence has no purpose and should be rejected.

The Apex Court noted that while the High Court did not decide the application for additional evidence in its main appeal judgment, it did subsequently consider and reject the application as being without merit while dismissing the review petition. The initial omission was thus addressed in the review proceedings.

On the principles of Order XLI Rule 27 CPC, the Court reiterated that parties to an appeal are not entitled to produce additional evidence as a matter of right. Such evidence can be permitted only in three specific situations: (i) the trial court wrongly refused to admit evidence; (ii) the party proves that despite due diligence, the evidence was not within its knowledge or could not be produced at trial; or (iii) the appellate court itself requires the evidence to pronounce judgment or for any other substantial cause.

The Court observed that the appellant-plaintiffs' claim of ownership was primarily based on a decree from an earlier suit instituted by their predecessors. However, the respondent-defendants were not parties to that earlier suit, rendering the decree non-est and not binding on them. Consequently, the onus shifted to the appellant-plaintiffs to independently establish their title in the present suit, which they failed to do by not producing any cogent title deeds at the trial stage.

Further, the Court held that the additional evidence sought to be produced, i.e., entries in the General Land Register showing the land as 'private', was impermissible at the appellate stage to cure inherent defects in the case. The Court stated that even if this evidence were accepted, it would not impact the High Court's findings, as mere recording of land as 'private' does not establish the appellants' ownership claim, especially against the respondents' title traced to a 1953 government decision and a 1954 Gazette Notification.