

CR-1404-2015 (O&M)

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

**CR-1404-2015 (O&M).
Decided on: March 3, 2015.**

Balkar Singh

..... Petitioner(s)

Versus

Avtar Singh and others

..... Respondent(s)

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CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

**PRESENT Mr.Amit Dhawan, Advocate,
for the petitioner.**

M.M.S. BEDI, J (ORAL)

The petitioner is aggrieved by order dated 6.2.2015, by virtue of which the trial Court has dismissed the application for amendment in a suit of declaration filed by the plaintiff petitioner against his father Avtar Singh, brother Gurjinder Singh and other relations.

In order to appreciate whether the amendment is necessary for determining the real questions in controversy between the parties, for allowing the amendment after trial has commenced, I have gone through the nature of the suit and the amendment which is sought for.

The plaintiff-petitioner has sought a declaration regarding ownership and possession of the property mentioned in heading of the plaint on the ground that the property being ancestral joint Hindu family property could not have been sold to Jasbir Kaur,

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Kishni and Swaran Singh, defendant Nos.7, 8 & 9 as the collusive decree passed by the civil Courts in favour of defendant No.2 Gurjinder Singh in suits Gurjinder Singh Vs. Avtar Singh (father of Gurjinder Singh) and Gurjinder Singh Vs. Joginder Kaur (mother of Gurjinder Singh) and others passed in the year 1983 and 1995, respectively were null and void. The endeavour of the plaintiff-petitioner appear to be to defeat the rights of the subsequent purchasers by even challenging the title of defendant No.2 Gurjinder Singh acquired by him by collusive decree. The suit was filed in the year 2010 to challenge the sale deeds of the year 2009 in favour of defendant Nos.7 to 9. The plaintiff-petitioner now seeks to incorporate an additional plea by amendment of the plaint by pleading that mother of the plaintiff in the year 1994 had entered into a compromise with defendant No.1 Avtar Singh, the father of the plaintiff-petitioner agreeing to transfer 61 kanals of land in the name of the petitioner who was minor at that time and to get the mutation entered and sanctioned so that the petitioner and his mother may survive from the income of the land. The said plea has been sought to be incorporated to strengthen the claim after a gap of 14 years.

Counsel for the petitioner has drawn my attention to the statement of the petitioner in his affidavit produced as examination-in-chief. Para 5 of the affidavit appears to be beyond pleadings. The amendment is being sought after furnishing the said affidavit. The above device clearly indicate the mala fide of the

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petitioner-plaintiff to incorporate an apparently new plea which was known to him at the time of institution of the suit. The intention of the petitioner-plaintiff appears to defeat the registered sale deeds by seeking amendment to incorporate the rights of female regarding maintenance. The trial Court has rightly dismissed the application for amendment filed at the final stage of the suit.

The petition is dismissed.

March 3, 2015.
rka

(M.M.S. BEDI)
JUDGE