

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No. 1833 of 2015 (O&M)
Date of decision: 21.4.2015

Balwan Singh (deceased) through LRs

.. Petitioner

v.

Tek Chand @ Tekan and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Jagmohan S. Ghumman, Advocate for the petitioner.

...

Rajesh Bindal J.

Challenge in the present petition is to the order dated 26.2.2015, vide which the application filed by the petitioner-plaintiff for amendment of the plaint, was dismissed.

In the case in hand, the application was filed by the petitioner-plaintiff at the stage when the case was fixed for rebuttal evidence and arguments. The suit was filed for declaration regarding ownership of part of the property and consequential relief of permanent injunction. The amendment sought was correction of a typographical error mentioning the word “inclusion” instead of “in collusion”. Further, basic pleadings are sought to be made regarding karewa marriage and amendment in the prayer clause as well.

Learned counsel for the petitioner submitted that the proposed amendment will not change the nature of the suit or the relief claimed. Certain inadvertent typographical errors are sought to be corrected. The plaintiff, being illiterate, could not notice those facts at the stage when the suit was filed. Even if the case was at the stage of rebuttal evidence, if any,

and arguments, such an amendment should not have been declined, as delay in such cases is not fatal.

After hearing learned counsel for the petitioner, I do not find any merit in the submissions made. Admittedly, the case was at the stage of rebuttal evidence, if any, and arguments when the application for amendment of the plaint was filed in a suit, which was instituted way back on 14.8.2008. The amendment sought to be made cannot be said to be of the kind, which could not be pleaded by the petitioner-plaintiff at the stage when the suit was filed, rather, the facts, as noticed in the impugned order by learned court below, suggest that amendment was being sought to fill in the lacuna. These were noticed by the new counsel engaged by the petitioner. The same cannot be a good ground to permit amendment of the plaint after more than six years of filing of the suit, when the trial had already concluded. There is no error in the order passed by the court below. Accordingly, the present petition is dismissed.

(Rajesh Bindal)
Judge

21.4.2015
mk