

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CR 2256 of 2015

Date of Decision: April 1, 2015

Shanti Devi

.....Petitioner

Vs.

Sewa Ram since deceased th. LRs and others

.....Respondents

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

-. -

Present:- Mr. Amit Jain, Advocate
for the petitioner.

-. -

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

Petitioner is a plaintiff. Application under Order 6 Rule 17 CPC has been dismissed by the trial Court, disallowing the plaintiff-petitioner to incorporate the prayer for mandatory injunction to direct the defendant- respondent No.1 to handover the possession of the suit property to the plaintiff, claiming that she had been dispossessed from the suit property during the pendency of the suit despite there being a status quo order passed by the trial Court on December 7, 2007 and confirmed on February 7, 2009. The trial Court has dismissed the application on the ground that the case has reached at the stage of the rebuttal evidence and

arguments and the plea of having been dispossessed from the property in dispute during the pendency of the suit has been taken up for the first time at a belated stage.

Learned counsel for the petitioner submits that the petitioner/ plaintiff does not want to lead any additional evidence and undertakes not to seek framing of an additional issue. She will also not pray for any additional evidence and would press for the prayer sought to be added by amendment, only on the basis of the material which has already been brought on the record by both the parties during the course of evidence.

I have heard learned counsel for the petitioner and gone through the plaint filed by the plaintiff- petitioner. The plaintiff-petitioner has sought a declaration to the effect that the property in dispute has been wrongly mutated on the basis of a Will of her father-in-law in the name of defendant- respondent who happens to be brother-in-law of the petitioner. She has also sought a decree for permanent injunction to restrain defendant No.2, Municipal Committee to maintain status quo in the municipal record of the House Tax Assessment Register or from making any adverse entries against the plaintiff of the ensuing assessment year.

A perusal of the plaint indicates that the suit of the plaintiff-petitioner is only regarding title. In the suit she has not claimed possession and status quo order, granted to her, could have been only in context to her prayer in the main plaint. By permitting her to incorporate the plea which

pertains to the possession, which is not subject matter of the suit, will tantamount to change the nature of the suit.

The petition is dismissed without prejudice to the rights of the petitioner to claim possession, in accordance with law, depending upon the title determined by the trial Court.

April 1, 2015
sanjay

(M.M.S.BEDI)
JUDGE