

IN THE HIGH COURT OF PUNJAB AND HARYANA, AT
CHANDIGARH

CR No. 2171 of 2013 (O&M)

Date of Decision: 07.04.2015

Gian Singh and others

.....Petitioners

Vs.

Pritam Kaur and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. M.K. Garg, Advocate,
for the petitioners.

Mr. B.S. Bhalla, Advocate,
for respondents No. 1 to 3.

None for respondent No. 4.

SABINA, J.

Petitioners have filed this petition challenging the order dated 01.02.2013, whereby application moved by the petitioner under Order 6 Rule 17 of the Civil Procedure Code, 1908 (for short 'CPC') for permission to amend the written statement, was dismissed.

Learned counsel for the petitioners has submitted that amendment in the written statement had been sought with a view to clarify certain facts. In fact petitioners in their written statement had initially pleaded that Bahadar Singh had died unmarried and issueless whereas now they wanted to admit the marriage of Bahadar Singh with respondent No. 1 Pritam Kaur and the fact that respondents No. 2 and 3 were the daughters of Bahadar Singh and Pritam Kaur. Petitioners had also pleaded regarding passing of the decree dated 13.03.1995 in favour of petitioner No. 1.

However, it could not be explained that the said decree had been passed on the basis of family settlement effected between the parties on 15.06.1992. They further wanted to plea that Bahadar Singh owned and possessed the ancestral house but had no concern with the suit land. The said ancestral house had already been sold by Bahadar Singh during his life time to Makhan Singh. Learned counsel has further submitted that petitioners have already led their evidence before the trial Court and will not lead any fresh evidence after amendment of the written statement.

Learned counsel for respondents No. 1 and 2, on the other hand, has opposed the petition and has submitted that by way of the amendment, petitioners want to take up new pleas and controvert their pleadings taken in the original written statement.

Respondents No. 1 to 3 have filed suit for declaration that they were owners of the land in question to the extent of 1/3rd share and have challenged the decree dated 13.03.1995 and transfer deed dated 02.12.2002 and mutations sanctioned on the basis of the same. Respondent No. 1 had claimed herself to be the widow of Bahadar Singh and has further claimed that respondents No. 2 and 3 were the daughters of Bahadar Singh. Petitioners while filing their written statement had denied the factum of marriage of Bahadar Singh with Pritam Kaur and the fact that respondents No. 2 and 3 were daughters of Bahadar Singh. However, by way of amendment, petitioners want to admit the fact that respondent No. 1 Pritam Kaur was married to Bahadar Singh and respondents No. 2 and 3 were children born out of the said wedlock. In the present case, decree dated 13.03.1995 has been sought to be set aside by respondents No. 1 to 3. Now by way of amendment, petitioners only want to plead that the decree dated

13.03.1995 had been passed, in view of the settlement arrived between the parties on 15.06.1992. Petitioners also want to plead that the ancestral house which was owned and possessed by Bahadar Singh had been sold by him to Makhan Singh, during his life time. The amendment in the written statement sought by the petitioners will not change the nature of the suit. Moreover, learned counsel for the petitioners has submitted that the petitioners will not lead any further evidence, in case they are permitted to amend the written statement as they have already led their evidence with regard to the amendment prayed by them.

Accordingly, this petition is allowed. Impugned order whereby application moved by the petitioners under Order 6 Rule 17, CPC, was dismissed, is set aside. Consequently, the application moved by the petitioners under Order 6 Rule 17, CPC is allowed.

(SABINA)
JUDGE

April 07, 2015
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