

CR-3295-2015 (O&M)

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

CR-3295-2015 (O&M).

Decided on: May 15, 2015.

Indira Gupta

..... Petitioner(s)

Versus

Mahinder Singh and others

..... Respondent(s)

*** * ***

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

**PRESENT Mr.Sanjiv Gupta, Advocate,
for the petitioner.**

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

This is plaintiff's revision petition against the order Annexure P5, dated 27.4.2015, passed by the Civil Judge (Jr. Divn.), Patiala, permitting the defendants-respondents to amend the written statement after issues had been framed.

With the assistance of counsel for the petitioner, I have gone through the nature of the litigation. The plaintiff- petitioner is seeking declaration challenging the decree dated 19.9.2000 passed by the Court to substantiate and establish his title in the property in dispute being vande from one of the three co-sharers. The plaintiff- petitioner has made a reference to the pendency of a probate petition pending at Delhi Courts. During pendency of the suit of the plaintiff- petitioner the probate petition appears to have been decided by probate Court at Patiala House, Delhi. The defendants-respondents had sought to incorporate the said subsequent event in

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the written statement by making a reference to the decision of the probate Court. The trial Court has allowed the said application observing that the amendment would be necessary in determining the real controversy between the parties and that no prejudice would be caused to either of the parties in case the amendment sought for is allowed by permitting the defendant to incorporate the subsequent events.

Counsel for the petitioner has vehemently contended that the amendment is absolutely not necessary for the decision of the case as the decision of the probate petition will not, in any manner, affect the adjudication of rights of the parties.

I have heard the counsel for the petitioner and carefully gone through the pleadings and also appreciated the contentions but I am of the opinion that the plaintiff- petitioner having already made a reference to a litigation which has been concluded during pendency of the present case, it will not be prejudicial to any one in case the result of the pending proceedings is permitted to be incorporated by permitting the amendment in the written statement. It will not be appropriate for this Court to adjudicate regarding the relevance, admissibility or effect of the litigation decided vide probate order by the Court at Delhi.

I have also considered the contention of the counsel for the petitioner that an appeal has been filed.

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I do not find any ground to interfere in the order as it is apparent that the amendment will facilitate the trial Court to determine the real controversy which involves dispute of title also finally avoiding multiplicity of litigation.

Dismissed without prejudice to the plaintiff-petitioner to rebut the pleadings and evidence produced by permitting the defendants-respondents to amend the written statement.

May 15, 2015.
rka

(M.M.S. BEDI)
JUDGE