

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

Date of decision: 28.01.2015

Chhinder Kaur and others

.....Petitioners

v.

Gurwinder Singh and others

.....Respondent

CORAM: HON'BLE MR.JUSTICE JASWANT SINGH

Present:- Mr.PK.S.Phoolka, Advocate for the petitioners.

Jaswant Singh,J.(Oral)

Defendants 4,5 and 7 are in revision aggrieved by the order dated 19.11.2014 (P-4) passed by Additional Civil Judge (Senior Division) Bathinda whereby their application for amendment of the written statement has been dismissed.

Two plaintiffs are minor grand sons of one Harbans Singh (since deceased) and have filed a suit challenging the orders passed by the Revenue Authorities refusing to sanction mutation in their favour regarding the suit property left behind by their grandfather Harbans Singh on the basis of a family settlement having culminated into passing of a collusive decree dated 3.8.2004.

Five daughters of Harbans Singh have been impleaded as defendants 4 to 8. They are claiming their share on the basis of natural succession.

Having heard learned counsel for the petitioners/defendants

RAJINDER PRASAD JOSHI
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I attest to the accuracy and
authenticity of this document
High Court, Chandigarh.

this Court is in agreement with the reasoning adopted by the learned trial Court while declining the request for amendment of the written statement. It is apparent that the proposed amendment regarding the passing of the impugned judgment and decree dated 3.8.2004, if at all against a dead person-Harbans Singh, was throughout in the knowledge of the present petitioners/defendants. Thus, the application filed for amendment after a delay of four years when the evidence of plaintiffs was closed and even defendants had availed more than seven opportunities to lead their evidence, it could not be construed that they had shown due diligence and were thus hit by the proviso to Order 6 Rule 17 CPC.

In view of the above, no case for interference in exercise of revisional jurisdiction of this Court under Article 227 is made out. Hence present revision petition is dismissed with costs of Rs.5000/- to be deposited with District Legal Service Authority,Bathinda.

28.01.2015
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(Jaswant Singh)
Judge