

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

**CR No. 380 of 2013 (O&M)
Date of decision-08.09.2015**

Davinder Kaur

... Petitioner

Vs.

Gurpreet Singh and another

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:- Mr. Sandeep Arora, Advocate
for the appellant.

Mr. Rishav Jain, Advocate &
Mr. V.K Sandhir, Advocate
for respondents.

RAJ MOHAN SINGH. J. (Oral)

Plaintiff seeks amendment of plaint in terms of Order 6 Rule 17 CPC.

The application in question came to be filed after perusing issues and even after availing 25 effective opportunities to lead evidence. Plaintiff filed suit for declaration to the fact that he is owner in possession as co-sharer of some specified share in the property. He has also sought permanent injunction restraining the defendant from alienating or creating any incumbrances on the suit land. By way of amendment, he seeks to add plea of joint possession in Para No.5 of the plaint by inserting new Para 5 (a) which reads as under:-

“5 (a). That the plaintiff is in joint possession of property being co sharer and if this Hon;ble Court finds that the plaintiff is not in possession even then she is in joint possession of the property as a co-sharer.”

Petitioner also seeks to add new paragraph 7 (a) in the following manner:-

“7 (a). That the suit is within limitation even from the date of execution of false sale deed dated 30.06.2006 and even on the date of filing the amendment application the suit for joint possession is within limitation.”

In terms of aforesaid Para 7 (a), plaintiff-petitioner seeks to mention factum of sale deed dated 30.06.2006 though in different context. As far as, the plea of joint possession is concerned, the suit itself is based on declaration on the basis of the co-ownership. A co-sharer would be deemed to be in joint possession until and unless land is partitioned by meets and bounds. According to this Court, plea of joint possession is wholly in-consequential, particularly at this stage, when after framing of issues, plaintiff has already availed 25 effective opportunities to lead evidence. Even otherwise, the proposed amendment will not go in a way to yield anything in view of subsequent plea of the petitioner by way of seeking amendment in Para No.7 (a) as mentioned above. Petitioner has not sought any declaration qua sale deed, nor has challenged the sale deed dated 30.06.2006 in any manner. Though said sale deed is claimed to be false and fabricated. At this stage, Court is not obliged to comment upon cause of action vis-a-vis aforesaid sale deed, but certainly the plaintiff is not entitled to seek any amendment in the plaint on the grounds set out in the application. The trial has already commenced and the defendant is in process of leading evidence. No ground is made out.

Dismissed.

September 08, 2015
vanita

(RAJ MOHAN SINGH)
JUDGE