

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

**CR No. 4574 of 2013
Date of Decision : 4.8.2015**

Randhir Singh

.....Petitioner

Versus

Bala alias Raj Bala and others

.....Respondents

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

Present:- Ms. Minkal Rawal, Advocate, for
Mr. Parvindra Singh Chauhan, Advocate, for the petitioner

Mr. Ashutosh Kaushik, Advocate, for respondent No.1

M.M.S. Bedi, J.

This order will dispose of revision petition preferred against order dated 10.7.2013, allowing the plaintiff/respondent No.1 to amend the plaint to enable her to challenge the sale deed dated 25.2.2005 on the ground of fraud. The trial Court while allowing the application for amendment has formed an opinion that as the parties have not started leading the evidence, no prejudice will be caused to the defendant/petitioner in case the amendment is allowed and the amendment is necessary for complete disposal of the suit.

With the assistance of learned counsel for the parties, I have gone through the nature of the litigation.

The plaintiff/respondent No.1 had filed a suit for declaration with a consequential relief of permanent injunction regarding the suit property mentioned in the heading of the plaint, claiming that the property

in the name of Mool Chand @ Popa is joint Hindu family property and the will and sale deed dated 7.1.2004 were illegal, null and void.

The defendant had filed written statement claiming that sale deed dated 25.2.2005 had been executed in favour of the defendant/petitioner. Since the sale deed in favour of the defendant/petitioner is sought to be questioned by amending the plaint, and adjudication on the said document appears to be necessary for decision of the rights of the parties once for all, the amendment appears to be necessary for conclusion of all the controversies between the parties subject to the law pertaining to court fee and limitation. The trial Court seems to have committed no error in allowing the plaintiff/respondent No.1 to amend the plaint.

It is, however, clarified that the amendment would be allowed subject to the law of court fee and limitation and it will not prejudice the rights of the defendant/petitioner to object to the maintainability of the suit on the ground of limitation or its maintainability in the light of Court Fees Act, 1870. However, the defendant will be entitled to pay costs of ₹ 5000/-.

Disposed of in the above terms.

(M.M.S. BEDI)
JUDGE

4.8.2015
Ashwani