

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

Civil Revision No. 6493 of 2007 (O&M)

Date of decision : 7.4.2015

Chaudhary Nasib Singh

.. Petitioner

versus

Narinder Singh and others

.. Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Girish Agnihotri, Senior Advocate with
Mr. Vijay Pal, Advocate, for the petitioner.

None for the respondents despite service.

Rajesh Bindal, J.

The petitioner/plaintiff is before this Court impugning the order dated 4.10.2007 passed by the learned court below whereby the application filed by him for amendment of the plaint was dismissed.

The petitioner had filed suit for mandatory injunction directing the defendants to hand over the vacant possession of suit property to him. It is claimed in the suit that the property no. 49, situated at New Jawahar Nagar, Jalandhar, was sold to Surjit Kaur and Chaudhary Nasib Singh-plaintiff in equal shares vide sale-deed dated 1.8.1966. Surjit Kaur partitioned the plot into two parts i.e. 1 kanal 5 marlas each. On death of Surjit Kaur, respondent nos. 1 and 2/ defendant nos. 1 and 2 inherited the property. Part of the plot was sold by defendant no. 2 Rajinder Singh to respondent nos. 4 and 5. The suit was filed with the allegations that respondent nos. 4 and 5 had encroached upon the property measuring 3 feet x 104 feet, as shown in the site plan. The suit was filed on 7.4.2006. During the pendency thereof, application for amendment of the plaint was filed, which was dismissed by the learned court below. The order has been impugned in the present petition.

Learned counsel for the petitioner submitted that after existing para 5 in the plaint, the petitioner seeks to add para 5-A to the extent that possession of land measuring 8 feet x 107 feet out of her portion was handed over by the mother of respondent nos. 1 and 2 to Chaudhary Dasondha Singh, who was having adjoining plot of land. However, there was no entry in the revenue record, as no registered-deed was executed qua the aforesaid transaction.

Learned counsel for the petitioner further submitted that suit was at the initial stage. The amendment was necessary for proper adjudication of the lis between the parties. The nature of relief claimed in the suit was not being changed. Hence, the learned Court below had committed error in declining the amendment.

None appeared for the respondents despite service.

Having heard learned counsel for the petitioner, I do not find any merit in the submissions made.

Dasondha Singh to whom the petitioner/plaintiff is claiming that Surjit Kaur deceased had handed over possession of 8 feet x 107 feet of portion out of her land is not even party to the litigation. No particulars have been furnished regarding the aforesaid transaction as admittedly the same is not even documented one. Rather the site plan produced by the petitioner as Annexure P-4 with the petition shows that area of 8 feet x 107 feet had been encroached upon by Dasondha Singh.

Once detailed paragraph, which is sought to be added by way of amendment in the plaint, is lacking in material particulars, it would be an exercise in futile to permit the petitioner to amend the plaint while adding that paragraph. I do not find that any error has been committed by the learned Court below in declining the prayer for amendment of the plaint.

The revision petition is, accordingly, dismissed.

7.4.2015
vs

(Rajesh Bindal)
Judge