

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 5437 of 2015
Date of decision : August 24, 2015

Inderjit Kaur

..... Petitioner

Versus

Kartar Singh and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. H. S. Dhindsa, Advocate
for the petitioner.

1. Whether reporters of local papers may be allowed to see the judgment ?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

Amit Rawal, J (oral).

The challenge in the present petition is to the impugned order 15.7.2015 whereby the application moved by the respondent-plaintiff for seeking amendment in the plaint i.e by causing amendment, in the head note and the prayer clause for challenging sale deed dated 15.5.2008 has been allowed.

Learned counsel for the petitioner-defendant No.2 submits that amendment at this belated stage at the instance of respondent-plaintiff was not maintainable. The order reflects that even the right to file written statement granted in the impugned order has not been taken care of.

He further submits that the amendment amounts to alteration/change of the nature of suit which has seriously pre

judicial rights of the petitioner, who is a bona fide purchaser, thus, suffers from illegality and perversity.

I have heard learned counsel for the petitioner and appraised the paper book.

It is evident that the plaintiff, in essence challenged the sale deed. For the sake of brevity paragraph 5 of the plaint reads thus:-

“5. That the plaintiff came to know that the defendant No.1 Chand Singh instead of fulfilling the terms of the agreement deed with the plaintiff has sold the suit land to the defendant No.2 Inderjit Kaur on 15.5.08 by cheating the plaintiff. The factum of agreement dated 23.2.2008 was known to the village.

Xx

xx

xx

7. That the plaintiff has been contracting the defendant No.1 that he has cheated and defrauded the plaintiff and without informing the plaintiff, he has further sold this suit land to defendant No.2 and the plaintiff is going to file civil as well as criminal proceedings against him, then the defendant No.1 informed the plaintiff that he would come to the residence of the plaintiff on 5.7.08 and explain the position.”

The plaintiffs were contemplating first to initiate action against defendant Nos. 1 and 2, which is evident on going through subsequent averments made in the plaint, thus, it is evident that the amendment sought by the plaintiff would not alter the nature and cause of action of the suit. It is a sheer inadvertence in not

seeking the cancellation of the sale deed by omitting to mention in the head note and prayer clause that liberty has been granted to the petitioner-defendant No.2 to file written statement and plaintiff has also been given liberty to lead evidence on issue of rebuttal.

Learned counsel for the petitioner submits that anxiety of his client to file revision petition has been taken note of by going, through the zimini order dated 30.7.2015 as it tantamounts to taking away right to file amended written statement, in my view is wholly misplaced, in as much as that the petitioner-defendant No. 2, has instead, refused to accept the cost, thus, has not offered to file the amended written statement.

There is no illegality and perversity in the aforementioned impugned order. The same cannot be said to be without jurisdiction. The revision petition is devoid of merits. However, dismissal of the revision petition would not come in the way of the petitioner-defendant No.2 in filing amended written statement.

Accordingly, the revision petition is dismissed.

(AMIT RAWAL)
JUDGE

August 24 , 2015
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