

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

Civil Revision No.5675 of 2014 (O&M)

Date of decision: 21.07.2015

Buta Singh

... Petitioner

versus

Gurditta Singh alias Gura Singh and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Daman Jeet, Advocate,
for the petitioner.

Mr.P.K.S. Phoolka, Advocate,
for respondents 1 to 5.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ?No.
3. Whether the judgment should be reported in the digest ? No.

K.Kannan, J. (Oral)

1. There is no help possible for the defendant who has denied any connection to the property and has taken a specific plea that he is not in possession. The defendant has subsequently filed an amended written statement to contend that the property was conveyed by the plaintiff's father and in evidence of the same, there was a bahi entry in writing of the year 1965 which he omitted to bring to court. The court declined the prayer for amendment and hence the revision.

2. I will have no difficulty in acceding to the plea that the court shall be liberal in addressing the claims for amendment of the written statement than it could be for a claim by the plaintiff, but the fundamental principle cannot be forgotten that the amendment must subserve justice and bring to focus the real controversy between parties. The counsel for the petitioner would state that the amendment became necessary only because the property was not properly described and there was confusion whether the property was situate within the limits of the village or outside the same of the *lal lakir*. The amendment was, therefore, necessitated by the confusion caused in the pleadings of the plaintiffs.

3. The counsel for the respondents points out that in the written statement the defendant has nowhere asserted that he is in possession or that his claim to the suit property was under a transaction allowing for the defendant to continue in possession by the plaintiff's father. Even in the amendment that makes reference to a bahi entry, there is no assertion that he is in possession of the property. The amendment cannot, therefore, be ordered.

4. I have examined the plaint and the description of property. It gives at the preamble the khasra number, khatauni, the boundaries and the extent that are said to be situate in the village. Every detail of what is necessary for description of immovable property is available. I cannot, therefore, countenance an argument

that the description of the property was vague and wrong and the plaintiff's own prevarication of whether the property was situate within the *lal lakir* or not required the defendant to bring an amendment to the pleadings. Even through the amendment, he is not prepared to assert that he is in possession of the suit property and that the possession could be traced to a bahi entry. A mere permission for the defendant to bring a reference to bahi entry does not make a meaningful change that can assist a proper adjudication.

5. I do not think that there was any error in the court below to modify or vary. The impugned order is sustained and the revision petition is dismissed.

(K.KANNAN)
JUDGE

21.07.2015
sanjeev