

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

Civil Revision No.6193 of 2015 (O&M)

Date of Decision: September 19, 2015

Mohinder Singh

.... Petitioner

vs.

Shamsher Singh and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. D.V. Sharma, Senior Advocate with
Mr. Sukhbeer Singh, Advocate for the petitioner.

1. Whether Reporters of Local Newspapers 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?

Kuldip Singh J.(Oral)

Impugned in the present revision petition is the order dated 24.08.2015 (Annexure P-3) passed by learned Addl. Civil Judge (Sr. Divn.), Jagraon (wrongly mentioned as Sub Divisional Judicial Magistrate at the bottom of the order), vide which an application for amendment of the written statement filed by defendant No.3-petitioner, was dismissed.

Brief facts of the case are that the plaintiffs have filed a suit for possession by way of redemption of mortgage land measuring 6 bighas of land on the payment of mortgaged money. The suit was filed on 30.11.1987. Now, defendant no.3-petitioner by way of present amendment wants to take the plea that the plaintiff is not entitled to claim the exclusive possession against defendant No.3 regarding suit land in which defendant No.3-petitioner is the co-sharer and that equal interest of Arjan Singh, vendor of the plaintiffs and alleged sale deed dated 28.05.1987 have no bearing on the

rights of defendant No.3-petitioner in the suit land. Further that Arjan Singh has no right to alienate Khasra No.2148 Min/614 more than his share and plaintiff cannot claim the exclusive possession of the suit land without partition. The application was dismissed on the ground that the nature of the amendment sought to be incorporated was well within the knowledge of defendant no.3-petitioner from the very beginning of the litigation. It was further observed that the plea is legal in nature and can be raised by defendant No.3-petitioner during final arguments. It was further observed that the litigation is pending for the last more than 25 years and amendment cannot be allowed at this belated stage.

After hearing learned counsel for petitioner, I am of the view that no interference in the impugned order is called for. The case was filed in the year 1987. Learned counsel for the petitioner contends that in the year 1990, the case was stayed and revived in the year 2014. Even in that case, the case remained pending for three years from 1987 to 1990 and one year from 2014 to 2015. The case is now mature for hearing arguments. The entirely different plea is sought to be taken. Even sale deed is sought to be challenged through the said amendment. Therefore, such plea, which was well within the knowledge of defendant No.3-petitioner, cannot be allowed at the final stage of the civil suit.

Hence, the present revision petition stands dismissed.

(KULDIP SINGH)
JUDGE

September 19, 2015
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