

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

**Civil Revision No. 6383 of 2013 (O&M)
Date of Decision: 03.11.2015**

Harnam Singh

..... Petitioner

Versus

Punjab Wakf Board

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

- 1) Whether reporters of local newspapers may be allowed to see judgment ?
- 2) To be referred to reporters or not ?
- 3) Whether the judgment should be reported in the Digest ?

Present: Mr. Ramesh Sharma, Advocate
for the petitioner.

Mr. Ghulam Nabi Malik, Advocate
for the respondent.

AMIT RAWAL, J. (ORAL)

Challenge in the present petition is to the impugned order dated 04.10.2013 passed by learned Additional District Judge, Kapurthala, whereby the application filed under Order 6, Rule 17 read with Section 151 of the Civil Procedure Code for amendment of the plaint, has been allowed.

Mr. Ramesh Sharma, learned counsel appearing on behalf of petitioner-defendant No. 7, submits that the application for amendment was moved at the belated stage i.e. after the commencement of the trial, thus impugned amendment could not be allowed as both the parties have led their evidence.

Mr. Ghulam Nabi Malik, learned counsel appearing on behalf of the respondent-plaintiff, submits that the amendment sought to be incorporated in the plaint is necessary and genuine for the effectual adjudication of the matter. Due to inadvertence, the name of Harnam Singh-defendant No. 7 (petitioner herein) in certain paragraphs and in the relief clause, could not be mentioned. One khasra number is also to be corrected in the plaint. He further submits that no further evidence is required to be led.

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

The amendment sought to be incorporated in the suit reads thus:-

Un-amended

“Suit for declaration and possession regarding land bearing Khewat No. 90 Khatauni No. 217, 215/205, 216, bearing Khasra No. 2137 (22-1), 2138 (34-16) total measuring 56 Kanals 17 Marlas in possession of Sant Singh situated at Santpura Mohalla, near Markfed Kapurthala wrongly entered in the ownership of Smt. Satya Wattti defendant No. 6 and the entry so made in the jamabandi for the year 2008-2009 B.K. are wrong, incorrect, void ab initio against the rights of the plaintiff. Similarly entry regarding khasra Nos. 2137, 2138 measuring 56 Kanals 17 Marlas bearing entry regarding possession of Central Govt. is wrong, incorrect, void ab-initio and against the rights of the plaintiff and for recovery of possession from above said defendants namely Sant Singh and further suit for declaration to the extent that the entry in column No. 4 of the jamabandi for the year 2008-2009 B.K. till date regarding land bearing Khasra No. 2137 measuring 22 Kanals 1 Marla and 2138 measuring 34 Kanals 16 Marlas in ownership of Smt. Satya Wattti situated at Mohalla Santpura, Kapurthala are wrong and needs to be evicted and the possession of the said land be handed over to the plaintiff.

AND

Suit for permanent injunction and Mandatory injunction restraining Harnam Singh defendant from illegally and forcibly entering into the land bearing Khasra No. 2137 measuring 22 Kanals 1 Marla, 2138 measuring 34 Kanals 16 Marlas belonging to the plaintiff and mandatory injunction

against Sant Singh, their servants, agents and attorneys from carving any colony, cutting plots or to built houses over khasra No. 2137 (22-1), 2138 (34-16) situated at Mohalla Santpura, near Markfed, Kapurthala as per jamabandi for the year 2008-2009 B.K.

It is, therefore, prayed that a decree for possession regarding land bearing Khewat No. 90 Khatauni No. 217, 215/205, 216, bearing Khasra No. 2137 (22-1), 2138 (34-16) total measuring 56 Kanals 17 Marlas in possession of Sant Singh situated at Santpura Mohalla, near Markfed Kapurthala wrongly entered in the ownership of Smt. Satya Watti defendant No. 6 and the entry so made in the jamabandi for the year 2008-2009 B.K. are wrong, incorrect, void ab initio against the rights of the plaintiff. Similarly entry regarding khasra Nos. 2137, 2138 measuring 56 Kanals 17 Marlas bearing entry regarding possession of Central Govt. is wrong, incorrect, void ab-initio and against the rights of the plaintiff and for recovery of possession from above said defendants namely Sant Singh and further suit for declaration to the extent that the entry in column No. 4 of the jamabandi for the year 2008-2009 B.K. till date regarding land bearing Khasra No. 2137 measuring 22 Kanals 1 Marla and 2138 measuring 34 Kanals 16 Marlas in ownership of Smt. Satya Watti situated at Mohalla Santpura, Kapurthala are wrong and needs to be evicted and the possession of the said land be handed over to the plaintiff and a decree for permanent injunction and Mandatory injunction restraining Harnam Singh defendant from illegally and forcibly entering into the land bearing Khasra No. 2137 measuring 22 Kanals 1 Marla, 2138 measuring 34 Kanals 16 Marlas belonging to the plaintiff and mandatory injunction against Sant Singh, their servants, agents and attorneys from carving any colony, cutting plots or to built houses over khasra No. 2137 (22-1), 2138 (34-16) situated at Mohalla Santpura, near Markfed, Kapurthala as per jamabandi for the year 2008-2009 B.K.

Amended

“Suit for declaration and possession regarding land bearing Khewat No. 90 Khatauni No. 217, 215/205, 216, bearing Khasra No. 2137 (22-1), 2138 (34-16) total measuring 56 Kanals 17 Marlas in possession of Sant Singh situated at Santpura Mohalla, near Markfed Kapurthala wrongly entered in the ownership of Smt. Satya Watti defendant No. 6 and the entry so made in the jamabandi for the year 2008-2009 B.K. are wrong, incorrect, void ab initio against the rights of the plaintiff. Similarly entry regarding khasra Nos. 2137, 2138 measuring 56 Kanals 17 Marlas bearing entry regarding possession of Central Govt. is wrong, incorrect, void ab-initio and against the rights of the plaintiff and for recovery of possession from above said defendants namely

Sant Singh and Harnam Singh and further suit for declaration to the extent that the entry in column No. 4 of the jamabandi for the year 2008-2009 B.K. till date regarding land bearing Khasra No. 2137 measuring 22 Kanals 1 Marla and 2138 measuring 34 Kanals 16 Marlas in ownership of Smt. Satya Watti situated at Mohalla Santpura, Kapurthala are wrong and needs to be evicted and the possession of the said land be handed over to the plaintiff.

AND

Suit for permanent injunction and Mandatory injunction restraining Harnam Singh defendant No. 7 from illegally and forcibly entering into the land bearing Khasra No. 2137 measuring 22 Kanals 1 Marla, 2138 measuring 34 Kanals 16 Marlas belonging to the plaintiff and mandatory injunction against Sant Singh, their servants, agents and attorneys from carving any colony, cutting plots or to built houses over khasra No. 2137 (22-1), 2138 (34-16) situated at Mohalla Santpura, near Markfed, Kapurthala as per jamabandi for the year 2008-2009 B.K.

After amendment para No. 15 will be as follows:

“15. That the court fee of Rs. 15/- prescribed which is affixed on the plaint.

It is therefore prayed that a decree for suit for declaration and possession regarding land bearing Khewat No. 90 Khatauni No. 217, 215/205, 216, bearing Khasra No. 2137 (22-1), 2138 (34-16) total measuring 56 Kanals 17 Marlas in possession of Sant Singh situated at Santpura Mohalla, near Markfed Kapurthala wrongly entered in the ownership of Smt. Satya Watti defendant No. 6 and the entry so made in the jamabandi for the year 2008-2009 B.K. are wrong, incorrect, void ab initio against the rights of the plaintiff. Similarly entry regarding khasra Nos. 2137, 2138 measuring 56 Kanals 17 Marlas bearing entry regarding possession of Central Govt. is wrong, incorrect, void ab-initio and against the rights of the plaintiff and for recovery of possession from above said defendants namely Sant Singh and Harnam Singh and further suit for declaration to the extent that the entry in column No. 4 of the jamabandi for the year 2008-2009 B.K. till date regarding land bearing Khasra No. 2137 measuring 22 Kanals 1 Marla and 2138 measuring 34 Kanals 16 Marlas in ownership of Smt. Satya Watti situated at Mohalla Santpura, Kapurthala are wrong and needs to be evicted and the possession of the said land be handed over to the plaintiff and a decree for permanent injunction and Mandatory injunction restraining Harnam Singh defendant No. 7 from illegally and forcibly entering into the land bearing Khasra No. 2137 measuring 22 Kanals 1 Marla, 2138 measuring 34 Kanals 16 Marlas belonging to the plaintiff and mandatory injunction against Sant Singh and Harnam Singh defendants,

their servants, agents and attorneys from carving any colony, cutting plots or to built houses over khasra No. 2137 (22-1), 2138 (34-16) situated at Mohalla Santpura, near Markfed, Kapurthala as per jamabandi for the year 2008-2009 B.K.

On juxtaposition of the unamended and proposed amended plaint, I am of the view that hardly there is any change in the plaint, much less any cause of action, the amendment does not amount to change the nature of the case. The plea that the amendment has been sought at the belated stage is hereby rejected, in view of the statement made at bar that the respondent-plaintiff shall lead any fresh evidence.

In view of the above, the aforesaid impugned order dated 04.10.2013 is sustained and cannot be said to have been passed without jurisdiction.

The present revision petition is accordingly dismissed.

November 03, 2015

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**(AMIT RAWAL)
JUDGE**