

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 668 of 2014 (O&M)

Date of decision: 07.07.2015

Sunder

... Petitioner

versus

Devi Dass and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Adarsh Jain, Advocate for the petitioner.

None for the respondents.

K.Kannan, J.

Amongst the LR's of 1st respondent, sons have been served and the daughters are reported to have left the place where process of service has been taken. Notice to them is dispensed with since the representation of other respondents who have been served is sufficient to protect the interest of the plaintiff.

The plaintiff who had sought for declaratory relief in relation to the property that was conveyed in his name and the property that had been actually delivered to him over which the plaintiff had allegedly put up construction brought an application for amendment for impleadment of the vendor. His contention was that the sale has been made through a power of attorney Gian Chand and in the plaint instituted, he had arrayed only Gian Chand as a party, (15th defendant) and had omitted to name the principal vendor. This application was rejected. It has been dismissed on the ground that the trial had commenced. The amendment to CPC seeks to bring discipline in the matter of pleadings and prevent any amendment after the commencement unless it is with reference to a fact which the plaintiff despite exercising the due diligence did not know. The plaintiff in this case says that power of attorney is a person who had been a party to the sale deed and he seeks for impleadment of principal vendor. It is clearly a case

of the plaintiff failing to do what he was bound to have done. I have only examined whether it could cause any serious prejudice, if the amendment were to be allowed. I do not find that there is any serious prejudice caused by the respondent. The sons have been served and they have not even opposed the petitioner's claim before this Court.

The petitioner must surely take a blame for his negligence and indiscretion and has caused an obstruction for free flow of trial. The petitioner should be made to bear the cost of Rs. 10,000/- ordered to be paid to the contesting respondent through the counsel appearing before the Court below and the amount shall be tendered within a period of two weeks. On amendment, the Court shall issued notice to the party that is sought to be impleaded and shall elicit the statement within a period of 30 days. The trial will continue from the stage at which evidence has been tendered and the defendant will have a right to bring pleadings appropriate to the amendment that has been brought through the application.

If the amount is not paid as directed, the order already passed will stand confirmed. The civil revision petition is allowed to the above extent.

07.07.2015
kv

(K.KANNAN)
JUDGE