
In the High Court of Punjab and Haryana at Chandigarh

**Civil Revision No.6906 of 2014
Date of Decision: 16.10.2015.**

Mahesh Chand

...Petitioner

Versus

Sarusti Devi and others

...Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Harish Goyal, Advocate,
for the petitioner.

Mr. P.K. Garg, Advocate,
for respondents No.1, 3 to 7, 9 & 11.

Mr. Naveen Saini, Advocate,
for respondent No.12.

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)

It comes out that Nasib Singh respondent No.8 who was defendant No.9 before the Lower Court was not appearing before the Lower Court. Therefore, his service is dispensed with.

Impugned in the present revision is order dated 16.08.2014 passed by Ld. Additional Civil Judge, Senior Division, Kharar vide which the application filed under Order

6 Rule 17 CPC by the plaintiff for amendment of the plaint was rejected.

It comes out that the plaintiff has filed a civil suit for declaration that he has become owner of the suit land on the basis of registered Will dated 18.03.1997 executed by his father Late Sh. Lachhman Dass. Further relief was sought that the General Power of Attorney dated 06.06.2007 executed by him in favour of defendant No.12 – Harminder Singh should be set aside on the ground mentioned in the plaint. Further, declaration is sought that the Sale Deed dated 31.08.2007 and the compromise dated 27.08.2007 executed/entered by the said General Power of Attorney holder on behalf the plaintiff are also liable to be set aside.

Now coming to the present amendment, it comes out that by way of present amendment, plaintiff wants to challenge the Sale Deed dated 17.11.1998 executed by his father Late Shri Lachhman Dass in favour of Jarnail Singh. His father died in the year 1999.

I have heard learned counsel for the parties and have also carefully gone through the file.

I am of the view that the cause of action for setting aside the sale deed dated 17.11.1998 executed in favour of Jarnail Singh is entirely different. The sale deed was executed

by the father of the plaintiff and during his lifetime he did not challenge it. Now the plaintiff wants to challenge the sale deed on certain grounds which are entirely different from the cause of action of the suit, in which the amendment is sought. Therefore, allowing the amendment would make it a case of misjoinder of cause of actions. For challenging the sale deed executed by father of the plaintiff in favour of Jarnail Singh, there is a separate cause of action and separate grounds are to be made out. It being so, amendment was rightly declined.

The revision stands dismissed.

It shall always be open to the plaintiff to file a separate suit, if so, permissible under law and subject to all just exceptions and the pleas, which may be taken by the opposite party.

October 16, 2015

Ankur

**(KULDIP SINGH)
JUDGE**