

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

Civil Revision No.776 of 2014 (O&M)

Date of decision: 10.03.2015

Iqbal Singh son of Rajinder Singh, resident of Village Bhamian,
Tehsil Khamanon, District Fatehgarh Sahib.

... Petitioner

Versus

Sukhdev Singh son of Labh Singh, resident of Village Mohan
Majra, Tehsil Khamanon, District Fatehgarh Sahib, and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Prabhinder Singh Punia, Advocate,
for the petitioner.

Mr. T.K. Joshi, Advocate,
for respondents 1 to 7 and 9 to 11.

K.Kannan, J. (Oral)

1. The petition against the order dismissing an application for amendment in the plaint was rejected on the ground that the petition for amendment was sought after the commencement of the trial and after two witnesses were examined. The suit had been filed seeking for a right in the property as a joint family member. The plaint sets out a pedigree table referring to one Labh Singh as his grandfather. The plaint states that his own right is secured to him by his birth. The application for amendment was brought to explain that Labh Singh was the owner of some properties and that was not

specifically set forth in the petition. The court had dismissed it by holding that there was no reason disclosed as to why in spite of due diligence the said fact could not be set forth and tested the bona fides of the application through the amended provision of Order 6 Rule 17 CPC brought by the Act of 2002 amendment.

2. I have only examined the records to see whether there is any serious prejudice that could be caused. If there is an averment in the plaint that he is claiming the suit property as ancestral property and that he has the right by birth, any evidence regarding how the ancestor was the owner is a matter of evidence and the law protects under Order 6 Rule 2 CPC that the pleadings shall set out only a material facts and not evidence. The source of ownership of his ancestor is a matter of evidence and even if not pleaded will not cause any serious bearing to the petitioner from contending how the predecessor became the owner of the property. I find no scope for intervention in such a situation under Article 227 of the Constitution of India which will be confined only to examining the situations where the orders are illegal or without jurisdiction or when there is very prejudice. I find none of the fallabilities as attached to the orders for an intervention.

3. The revision petition is dismissed.

(K.KANNAN)
JUDGE

10.03.2015
sanjeev