

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.

Civil Revision No.842 of 2015

Date of Decision:- 02.03.2015

Jasbir Singh.

.....Petitioner.

Versus

Punjab State Electricity Board & Anr.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. K.S. Bassi, Advocate for the Petitioner.

JASWANT SINGH, J. (ORAL)

Plaintiff is in revision aggrieved by the order dated 13.01.2015 (P-1), passed by the learned Civil Judge (Jr. Divn.), Patiala whereby application of defendant no.3 for recasting/deleting issue nos.2 to 5 was allowed and vide the same order, the application filed by the plaintiff under Order 6 Rule 17 CPC for amendment of the plaint was dismissed.

Learned Counsel for the petitioner has argued that the learned Court below has wrongly deleted/recasted the issues because the issues framed by the Court below were based upon the pleadings of the parties. It was further argued that vide the amendment the plaintiff intended to amend his plaint seeking the relief of declaration that he is owner of the suit property. Thus, it was prayed that the findings of the Court below is liable to be set aside.

After hearing learned Counsel for the petitioner and perusing the paper book, this Court is of the considered view that the present petition is devoid of any merit and the same deserves to be dismissed.

A perusal of the record would reveal that the plaintiff has filed a suit for injunction to the effect that the defendant no.1-Punjab State Electricity Board be restrained from installing electricity connection in favour of defendant no.2-Shobha Ram with a further relief of mandatory injunction for directing the defendant no.1 to install electric connection in name of plaintiff. The learned Court below has rightly held in its impugned order that in a suit for permanent injunction question of title cannot be decided and thus the issues framed by his predecessor regarding ownership of property are not required at all. Further, it is admitted fact that the petitioner/plaintiff has now filed a suit for declaration regarding his ownership. Thus, the issue no.3 regarding Order 2 Rule 2 CPC as framed by the learned trial Court seems to be the correct approach on part of trial Court. Thus, there is no illegality in the order whereby the learned trial Court had reframed the issues.

As far as the plea of the plaintiff for amending his plaint is concerned, this application seems to be a clear counter blast to the application filed by defendant no.2 for recasting the issues because in the original suit, plaintiff has not sought relief of declaration of ownership over the property in question and now by filing the application of amendment, he intends to fill up the lacunae and change the nature of the suit itself. Furthermore, the plaintiff has already filed the suit for title and thus the learned trial Court had correctly dismissed the application which was filed at the fag end of the case.

In view of the above, finding no merit in the present revision petition, the same is hereby dismissed.

(JASWANT SINGH)
JUDGE

2nd March, 2015
Vinay/Gagan