

CR No.8642 of 2014 (O&M)

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

**CR No.8642 of 2014 (O&M)
Date of decision:13.01.2015**

Swaran Singh @ Sarwan Singh and others

...Petitioners

Versus

Harmandeep Singh and others

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. D.S.Malwai, Advocate,
for the petitioners.

Rakesh Kumar Jain, J.

The petitioners are aggrieved against the order passed by the Court below, allowing the application of the plaintiff-respondent no.1 for amendment of the plaint.

In brief, the plaintiff filed suit for declaration that he is the owner in possession to the extent of 1/4th share out of land measuring 16 Bigha 4 Biswas and entitled to sanctioning of mutation; order of A.C. IInd Grade, Malerkotla dated 30.03.2006 rejecting the mutation of sale deed dated 27.05.2004; order of the Collector, Malerkotla dated 31.10.2007 rejecting the appeal filed by the plaintiff against the order dated 30.03.2006; compromise dated 25.08.2007 entered into between defendants no.2 to 5 in

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Civil Appeal No.41 of 22.03.2006 decided on 02.04.2009; judgment and decree dated 02.04.2009 passed in Civil Appeal No.41 of 22.03.2006 on the basis of the aforesaid compromise dated 25.08.2007 and the order dated 07.04.2011 passed by the A.C. 1st Grade, Sunam sanctioning mutation no.2531 on the basis of the alleged judgment and decree dated 02.04.2009 are illegal, null and void and the result of collusion of defendants no.3 to 5.

Learned counsel for the petitioners has submitted that the plaintiff had earlier filed an application for amendment of the plaint on 05.10.2009 and also filed the subsequent application on 19.07.2011. The application filed on 05.10.2009 was not pressed and was dismissed on 14.11.2014 and on the same day, the application dated 19.07.2011 was allowed. It is submitted that once the first application was dismissed, the second application was not maintainable.

After hearing learned counsel for the petitioners and examining the available record, I am of the considered opinion that there is no merit in his submission because had the application dated 05.10.2009 been dismissed on an earlier date, the second application on the same cause of action could not have been decided by the same Court but there were two similar applications which were both listed on the same day, therefore, the plaintiff made a statement that he wanted to press the subsequent application dated 19.07.2011 instead of his earlier application dated 05.10.2009 as he found his subsequent application to be more comprehensive and hence, on the same day, the earlier application dated 05.10.2009 filed by the plaintiff was ordered to be withdrawn and the

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subsequent application was decided on merits.

Thus, there is no error committed by the trial Court in allowing the application for amendment filed by the plaintiff-respondent no.1 and hence, the present revision petition is hereby dismissed being denuded of any merit.

January 13, 2015
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Rakesh Kumar Jain
Judge