

IN THE HIGH COURT OF PUNJAB AND HARYANA, AT  
CHANDIGARH

CR No. 8802 of 2014

Date of Decision: 21.05.2015

Roop Inder Singh and others

.....Petitioners

Vs.

Jaswant Kaur and others

.....Respondents

**CORAM: HON'BLE MRS. JUSTICE SABINA**

Present: Mr. Malkeet Singh, Advocate,  
for the petitioners.

Mr. S.S. Salar, Advocate,  
for the respondents.

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**SABINA, J.**

Petitioners have filed this petition challenging the order dated 16.08.2014.

Learned counsel for the petitioners has submitted that the suit was at an initial stage and the amendment sought by the petitioners was very necessary for the just decision of the case.

Learned counsel for the respondents, on the other hand, has opposed the petition and has submitted that now by way of amendment, petitioners want to challenge the decree dated 29.10.1975 and mutation sanctioned on the basis of the said decree. The said decree was already in the knowledge of the petitioners.

In the present case, petitioners have filed suit for declaration to the effect that the judgment and decree dated

27.04.1993 were illegal, null and void and were not binding on the rights of the plaintiffs. During the pendency of the suit, petitioners moved an application under Order 6 Rule 17 of the Code of Civil Procedure, 1908 (for short 'CPC') for permission to amend the plaint. Now by way of amendment, petitioners want to challenge the decree dated 29.10.1975 passed in civil suit titled **Gurpreet Singh** vs. **Joginder Singh** and mutation sanctioned on the basis of the said decree. Since the decree now sought to be challenged was passed way back in the year 1975, the learned trial Court rightly held that it could not be presumed that the factum of the passing of the decree was not in the knowledge of the petitioners at the time of filing of the suit. Rather in the facts and circumstances of the present case, petitioners can be presumed to be in the knowledge of decree dated 29.10.1975 at the time of filing of the suit but for the reasons best known to them they had failed to challenge the same. Thus, application moved by the petitioners under Order 6 Rule 17, CPC, for permission to amend the plaint was liable to be dismissed.

Hence, no ground for interference is made out.

Dismissed.

**(SABINA)  
JUDGE**

May 21, 2015  
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