

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

CR No.1654 of 2016
Date of decision : 25.07.2016

Malkiat Kaur

...Petitioner

Versus

Sukhwinder Kaur and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Deepak Verma, Advocate for the petitioner.

Mr. Sarju Puri, Advocate for respondent No.1.

AMIT RAWAL, J. (Oral)

Mr. Deepak Verma, learned counsel appearing on behalf of petitioner-plaintiff submits that his client is aggrieved of the impugned order, whereby application seeking amendment of the plaint by giving correct description of the property in suit seeking declaration on the basis of the Will, has been declined.

He further submits that amendment aforementioned is in consonance with the contents of the Will but due to inadvertence, correct description of the property could not be incorporated in the plaint. No doubt suit is at the final stage but it would not effect the rights of the defendant as

plaintiff had already led evidence on this account and undertakes not to lead any fresh evidence and thus urges this Court for setting aside of the impugned order.

Mr. Sarju Puri, learned counsel appearing on behalf of respondent No.1 submits that petitioner had filed identical application three years back and same was dismissed and such order, so far, has not been challenged. Even otherwise, defendant does not want the adjudication of the suit as he had been delaying the decision of the suit by moving one application or the other. Application for additional evidence has been moved which was declined and said order was challenged in this Court by filing CR No.4890 of 2013 which was decided on 07.09.2015 and the same was allowed subject to the payment of cost of ₹15,000/- and thus urges this Court for affirmation of the findings under challenge.

Mr. Deepak Verma, Advocate in rebuttal submits that aforementioned order was also challenged by filing the revision petition seeking review but the same has also been dismissed, therefore there is no legal impediment.

I have heard learned counsel for the parties and appraised the paper book and of the view that no doubt approach of the petitioner-plaintiff had been callous, tardy, lackadaisic but the fact remains that in the absence of the description of the property, suit is for seeking declaration qua estate of the testator in view of the Will dated 13.04.2005, I am of the view that in order to avoid consequential complication, amendment sought to be incorporated is necessary for the adjudication of the lis between the parties.

The petitioner had been not diligent in seeking amendment and was having

knowledge of this fact, though explanation given in seeking review of the order is not fully satisfactory but the fact remains that in order to prevent the mis-carriage of justice much as procedure is hand made, I intend to allow the application seeking amendment of the plaint subject to the payment of the cost of ₹20,000/-.

Petitioner is granted last opportunity to file amended plaint.

In view of the statement recorded in the order, petitioner shall be at liberty to file amended written statement with no liberty to lead any evidence, thereafter, trial Court shall proceed in accordance with law. Cost aforementioned is ordered to be paid to the counsel for the respondent in this Court.

Impugned order is set aside.

Revision petition is allowed.

25.07.2016

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**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned: Yes

Whether reportable:- Yes/No