

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

**CR No.2101 of 2015 (O&M)
Date of Decision: 19.08.2016**

Kartar Singh (since deceased) through his LR

.....Petitioner

Vs

Amar Nath (deceased) through his LRs and others

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Om Parkash Sharma, Advocate
for the petitioner.

Mr. Atul Gaur, Advocate and
Mr. Sumeet Goel, Advocate
for respondents No.1(i), 1(iii) to 1(v), 2, 3(i), 3(ii), 3(iii),
3(v) and 3(vi).

RAJ MOHAN SINGH, J.

[1]. This revision petition has been filed by the plaintiff-petitioner against the order dated 24.02.2015 passed by Additional Civil Judge (Senior Division), Sonapat.

[2]. Initially, the suit was filed by father of the petitioner for declaration of ownership on the basis of adverse possession.

[3]. Petitioner alleged that petitioner had handed over the copies of revenue records to his counsel for drafting necessary case as per legal position. Petitioner had already disclosed to

his counsel that his possession is continuing over the suit land through his forefathers for the last more than 70 years without payment of any revenue/batai. The possession of the petitioner was claimed to be hostile for a period of more than 12 years. In the absence of any technical knowledge, proper frame of suit could not be ascertained by him. Instead of seeking occupancy rights based on long possession, the form of suit was designed to seek title on the basis of adverse possession. By way of amendment, the nature of suit was sought to be changed from declaration on the basis of adverse possession to the declaration on the basis of status of occupancy tenant.

[4]. Application was contested by the respondents. Apparently, the suit for declaration based on plea of adverse possession may have some questionable position in law, therefore, the petitioner thought it appropriate to get the plaint amended by way of inserting declaration of his ownership being an occupancy tenant.

[5]. Plea of seeking declaration on the basis of occupancy status is apparently a contradictory and destructive plea to the stand already taken in the plaint wherein the plaintiff-petitioner sought declaration of title based on adverse possession. Such a plea of adverse possession pre-supposes vesting of title in favour of opposite party whereas in a suit for declaration on the

basis of pleadings of occupancy rights has contradictory note and the plea being destructive in nature cannot be allowed to be incorporated by way of amendment in question.

[6]. Petitioner wanted to incorporate altogether different plea by way of amendment which besides being contradictory, is destructive in nature also. By way of amendment in question, petitioner would take away clear admission of title without there being any lawful explanation of such a course. The previous amendment in view of facts and circumstances of the case is not in consonance with established legal position, nor it will advance cause of justice. The petitioner is always at liberty to seek declaration of his occupancy rights in accordance with law.

[7]. No indulgence in terms of amendment of pleadings i.e. plaint can be granted on the aforesaid premise. This revision petition is found to be totally devoid of merits. Trial Court has not committed any jurisdictional error while passing the impugned order. This revision petition is accordingly dismissed.

19.08.2016

Prince

**(RAJ MOHAN SINGH)
JUDGE**

Whether Reasoned/Speaking

Yes/No

Whether Reportable

Yes/No