

Civil Revision No.3453 of 2015

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

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Civil Revision No.3453 of 2015

Date of Decision: August 03, 2016

ANIL KUMAR

-PETITIONER

VS

MAHINDER SINGH AND ORS

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.Madan Pal, Advocate
for the petitioner.

Mr. Sanjiv Gupta, Advocate
for the respondent.

RAJ MOHAN SINGH, J. (ORAL)

{1}. Plaintiff-petitioner has challenged order dated
24.04.2015 passed by Civil Judge (Sr. Divn.), Karnal whereby

amendment of the plaint was partly allowed in respect of Will dated 08.09.2010 executed by Bhagat Ram in favour of Mahinder Singh and Rajbir Singh. Since, Bhagat Ram died during pendency of the suit and legal representatives were impleaded on the strength of Will in question, therefore, petitioner-plaintiff has all the reasons to amend the pleadings of plaint accordingly.

{2}. The said prayer was acknowledged by the trial Court and amendment was allowed to be made. The second aspect of the matter was that Bhagat Ram exchanged some land situated in village Jhanjhari with the land of his brother Dharam Singh in village Dussain. Said exchange took place during pendency of suit and was also hit by doctrine of *lis pendence*. The plaintiff herself has tendered judgment and decree of exchange dated 01.11.2010 as Ex.P13 and Ex.P14 on record on 17.09.2011. In the light of these facts, trial Court itself found that the cause of the plaintiff is protected by application of doctrine of *lis pendence*

and therefore, plaintiff can be permitted to amend the plaint qua the decree dated 01.11.2010.

{3}. After observing in the aforesaid context, the trial Court in the concluding part of the order only referred to the amendment arising out of Will dated 08.09.2010. In my view, the intention of the trial Court was to allow the amendment in toto and not in part. Even otherwise, I am of the view that the amendment in question will advance the cause of justice and will prevent multiple litigations in future.

{4}. However, at this stage, it is noticed that since the decree dated 01.11.2010 has come into being during pendency of the suit and has also been tendered by the petitioner in evidence, therefore question of providing any opportunity to lead evidence on said premise does not arise. There is no issue of Will and the learned counsel for the respondent has also stated that issue of Will will not be raked up during the trial, therefore, on that premise also, there cannot be any opportunity to led

evidence at the hands of the petitioner.

{5}. Accordingly, this revision is accepted with the observation as mentioned above. Since, both the parties have already concluded their evidence, therefore, the trial Court shall proceed to bring the suit to the logical end.

03.08.2016

(RAJ MOHAN SINGH)

jyoti Y.

JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No