

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

Civil Revision No.4653 of 2014

Date of decision : 05.01.2016

Om Kanwar

.....Petitioner

Versus

Raj Singh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

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

Present: Mr. Rakesh Nehra, Advocate for petitioner.

Mr. Dhiraj Chawla, Advocate for respondents No.1 to 3.

DARSHAN SINGH, J.

The present civil revision petition under Article 227 of the Constitution of India has been preferred for setting aside the order dated 14.05.2014 passed by learned Civil Judge (Junior Division), Pataudi, vide which the application filed by the plaintiffs/respondents No.1 to 5 for amendment of plaint has been allowed.

2. Learned counsel for the petitioner contended that initially the respondents have filed an application under Order I Rule 10 read with

Order VI Rule 17 of the Code of Civil Procedure, 1908 (hereinafter referred to as 'CPC') for addition of name of Smt. Devi as one of the plaintiffs but the said application was dismissed as withdrawn on the basis of the statement made by learned counsel for the respondents vide order dated 26.08.2013. They again filed an application, which was allowed by learned trial Court vide order dated 15.02.2014 and Smt. Devi was allowed to be impleaded as plaintiff. Then they filed the third application under Order VI Rule 17 read with Section 151 CPC for amendment of the plaint seeking to introduce various alterations in the plaint. He contended that the learned trial Court has erred in entertaining the repeated applications filed by the respondents for amendment of the plaint. He contended that the trial has already started. Five witnesses have already been recorded. If the amendment is allowed, it will change the nature of the suit and will cause delay in disposal of the case. Thus, he contended that the impugned order is liable to be set aside.

3. On the other hand learned counsel for the plaintiffs-respondents contended that the necessity has arisen for amendment in the plaint due to impleading of Smt. Devi as one of the plaintiff. The shares claimed in the plaint have to be corrected accordingly. No new case is being introduced and the amendment will not cause any prejudice to the rights of the petitioner.

4. I have duly considered the aforesaid contentions.

5. This fact is not disputed that Smt. Devi has been impleaded as one of the plaintiff. It was alleged that earlier due to some mistake Smt. Devi could not be specifically impleaded as a plaintiff. Her

name was inadvertently mentioned as surname to another plaintiff namely Smt. Kamla. Vide order dated 15.02.2014 Smt. Devi was ordered to be impleaded as one of the plaintiffs.

6. The amendments sought in the present application are only the consequential amendments as a result of impleading Smt. Devi as a plaintiff. The name of Smt. Devi is to be included in the list of legal heirs of Hukum Chand deceased. The consequent corrections in the shares claimed by the plaintiffs are to be made. These consequential amendments in my opinion are necessary for the purpose of determining the real questions in controversy between the parties. These consequential amendments are not going to change the nature of the suit and will also not result in any prejudice to the rights of the petitioner.

7. Thus, I do not find any illegality in the impugned order calling for interference by this Court by exercising the powers under Article 227 of the Constitution of India.

8. Resultantly, the present revision petition has no merits and the same is hereby dismissed.

05.01.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**