

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.5305 of 2016 (O&M)
Date of decision:22.08.2016

Anoop

... Petitioner

Vs.

Maha Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Vipin Pal Yadav, Advocate
for the petitioner.

AMIT RAWAL J. (Oral)

Petitioner-defendant is aggrieved of the impugned order dated 20.07.2016 (Annexure P-1), whereby, an application at the instance of the respondent-plaintiffs seeking amendment of the plaint to incorporate the other property in a suit for partition and permanent injunction, has been allowed.

Mr. Vipin Pal Yadav, learned counsel appearing on behalf of the petitioner submits that plea sought to be incorporated is that property at the hands of common ancestor, namely, Jai Singh was ancestral in nature. Though it was self acquired property but no doubt father died intestate and by virtue of invoking the provisions of Order 1 Rule 10 of Code of Civil Procedure, subsequent vendee sought to be impleaded as defendant No.9 which was allowed. He further submits that the trial had already commenced and though the suit is at the initial stage and amendment sought is an after

though tantamount to filling up the lacunae and the valuable right has accrued in favour of defendant which tantamounts to altering the nature of the suit property which is not permissible in law. This fact has not been noticed by the Court below and thus, urges this Court for setting aside the impugned order.

I have heard learned counsel for the petitioner and appraised the paper book and of the view that amendment allowed is most innocuous and does not tantamount to alter the nature of the case as in the initially filed suit, the respondent-plaintiff sought the partition of residential plot and house. Though there is a reference of the property being ancestral, I do not deem it appropriate to comment upon the nature of the property but in case, certain other property had been left out in the suit, in my view, it is a right stage to incorporate the same in the suit and therefore, rightly so, the application has been allowed in order to avoid technical objections.

In view of the aforementioned observations, I do not intend to differ with the view expressed by the trial Court. No ground is made out for interference in the impugned order.

Accordingly, the revision petition stands dismissed.

(AMIT RAWAL)
JUDGE

August 22, 2016
savita

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No