

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.5735 of 2015
Date of Decision: February 16, 2016

Smt.Moharbi

...Petitioner

Versus

Bhonda @ Kalu

...Respondent

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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

Present: Mr.Amit Jain, Advocate,
for the petitioner.

Mr.Sanjay Vij, Advocate,
for the respondent.

AMIT RAWAL, J. (Oral)

The petitioner-defendant is aggrieved of the dismissal of her application seeking amendment of the written statement at the stage when the suit had reached for arguments.

Mr.Amit Jain, learned counsel appearing on behalf of the petitioner-defendant submits that the amendment sought to be incorporated with regard to the legal objection that the suit is bad for partial preemption is essential and necessary and does not alter the nature of the claim. He further submits that if the amendment, as sought, is allowed, his client would not lead any evidence.

Mr.Sanjay Vij, learned counsel appearing on behalf of the respondent-plaintiff submits that the arguments in the main suit had already been addressed and at that stage, the application was moved. It is an attempt

to prolong the decision of the suit as much evidence has been led in favour of the respondent-plaintiff.

I have heard the learned counsel for the parties and appraised the paper book.

The amendment sought to be incorporated by adding preliminary objection reads thus:-

“That the present suit is bad for partial pre emption. Without prejudice of basic plea of the defendant, it is submitted that if the Hon'ble Court comes to the conclusion that the plaintiff is tenant over the suit land, in that event the present suit is bad for partial pre emption for the reason that the plaintiff is claiming his tenancy over the suit land since the time of his father, who was recorded tenant over the land bearing Rect.No.20 Killa No.21 (8-0) and Rect.No.25 Killa No.1(8-0) for the first time in the Jamabandi for the year 1960-61 and both these numbers are part of sale deed in dispute but the present suit has been filed by the plaintiff only in respect of Rect.No.25 Killa No.11 (8-0) which is also part of alleged whole of the tenancy.”

In my view, such amendment is not maintainable as the legal pleas can always been taken during the course of the arguments. As already noticed above, evidence in this regard has already been led.

With the aforementioned observations, the impugned order cannot be said to have been passed without any jurisdiction. The same is affirmed.

Revision petition stands dismissed.

February 16, 2016
ramesh

(AMIT RAWAL)
JUDGE