

In the High Court of Punjab and Haryana at Chandigarh

**CR No. 5984 of 2016 (O&M)
Date of decision: 14.9.2016**

SARWAN

.....Petitioner

Versus

BABU SINCE DECEASED THROUGH LRS SHEEDAN AND ORS.

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Sandeep K.Sharma, Advocate,
for the petitioner.

RAJ MOHAN SINGH, J.(oral)

Amendment of plaint is being sought at appellate stage, thereby seeking to amend the title and prayer clause of the plaint.

Learned counsel for the petitioner contended that in para Nos. 6 and 7 of the plaint, factum of order dated 19.6.1980, vide which mutation No.2264 was cancelled and a wrong mutation No.3460 was sanctioned, was mentioned and the pleadings with regard to non existent nature of order dated 19.6.1980 was also pleaded in para No.7 of the plaint. The sale deed executed by defendants No.1 to 3 in favour of defendants No.4 to 17 was also sought to be declared illegal, null and void.

The amendment at the appellate stage has been declined by the Appellate Court on the premise that in the written statement the challenge made by the plaintiff was stated to be a belated challenge having been made about 36 years of passing

of order dated 19.6.1980. Civil Court decree dated 14.11.1996 passed by Civil Judge (Jr.Divn.), Jalandhar was also sought to be challenged without explaining as to how that judgment and decree was relevant for decision of the appeal. No application was filed during the trial nor the same was filed at the time of presentation of the appeal. The appeal is already at the final stage of arguments. In the event of acceptance of such proposed amendment, the judgment and decree of the trial Court would virtually be nulled. Above all the lower Appellate Court has also observed that necessary pleadings were already in the body of the plaint and the proposed amendment is not at all required.

In view of factual details, as observed here-in-above, this Court also does not deem it appropriate to allow amendment at appellate stage as the same would be having the effect of nullifying judgment and decree of the trial Court which was passed after full contest.

Accordingly, this revision petition is dismissed.

Suffice it to observe that nothing expressed here-in-above would be construed as an opinion on the merits of the case. Lower Appellate Court will assess merit of the case in accordance with law.

(RAJ MOHAN SINGH)
JUDGE

September 14, 2016
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