

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.6198 of 2016

Date of Decision: September 21st, 2016

Paramjit Singh

...Petitioner

Versus

Gurbachan Kaur (since deceased) through L.Rs. & others

...Respondents

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

Present: Mr.Suresh Singla, Advocate,
for the petitioner.

AMIT RAWAL, J. (Oral)

Petitioner-defendant is aggrieved of the dismissal of the application moved under Order 6 Rule 17 CPC of amendment of the written statement in a suit filed in the year 2011 for setting up the counter claim by seeking declaration on the basis of the Will.

Mr.Suresh Singla, learned counsel for the petitioner-defendant submits that if the parties are called upon in the Court, there are chances of compromise. The claim of the petitioner was based upon the Will dated 25.12.2007 which was registered on 25.1.2010, but inadvertently the same could not be referred in the written statement. The amendment sought does not change the nature of the suit. All these aspects have not been considered by the trial Court and, thus, there is illegality and perversity in the impugned order.

I have heard the learned counsel for the parties, appraised the paper book and of the view that the counter claim/defence with regard to

Will dated 25.12.2007 was never taken up in the written statement. Suit is of 2011, whereas the counter claim with regard to Will is sought to be set up seeking declaration for the first time in 2016. *Prima-facie*, it is barred by limitation. Counter claim has to be tried as an independent suit. In case the petitioner-defendant intends to compromise the matter, he can seek the reference of the same for compromise before the trial Court.

No ground for interference is made out.

Revision petition stands dismissed.

September 21st, 2016
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No