

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

-.-

Civil Revision No. 6454 of 2016

Date of decision: 27.09.2016

Mohan Singh

..... Petitioner

Versus

Gurdeep Kaur and another

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Vikas Bali, Advocate
for the petitioner

-.-

Rekha Mittal, J. (Oral)

The present petition has been directed against order dated 09.09.2016 (Annexure P5) passed by the Civil Judge (Jr. Division) Ludhiana whereby application filed by the respondent/plaintiff under Orders 1 Rule 10 and 6 Rule 17 of Code of Civil Procedure (in short, 'CPC') has been allowed and Shri Karamjit Singh, in whose favour a part of the suit property measuring 150 square yards has been transferred by defendant Mohan Singh, has been allowed to be joined as a party on the array of defendants (defendant No. 2).

Counsel for the petitioner has submitted that the application filed by the respondent/plaintiff (Annexure P3) does not make reference to any additional facts to be added in the plaint though in head note of the application, there is reference to Order 6 Rule 17 CPC. It is further submitted that in the concluding para of the application, only prayer made by the respondent/plaintiff is that Karamjit Singh son of Mohan Singh may

be impleaded as defendant being a necessary party and necessary amendment in the plaint be allowed. Further submitted that the Court allowed the application under Order 1 Rule 10 CPC with the observations that 'required amendments are necessary in the plaint as per Order 1 Rule 10 CPC.' It is further submitted that though the respondent/plaintiff was allowed to add a party and consequent amendment in the plaint but the plaintiff under the garb of said order has filed amended plaint, making many additions therein that is beyond the scope of application and order passed by the trial Court.

I have heard counsel for the petitioner and perused the paper book particularly the impugned order.

Before advertng to the submissions made by counsel for the petitioner, it is appropriate to extract a part of the impugned order, germane to the controversy:-

“.....Further I am of the view that even if two joint applications cannot be allowed but the application under Order 1 Rule 10 only can be allowed in the present application. Therefore, after allowing the application under Order 1 Rule 10 of CPC, the required amendments are necessary in the plaint as per Order 1 Rule 10 of CPC. Therefore, for the proper and effective adjudication of the present case, the present application is allowed.”

Counsel for the petitioner has no grievance to express with regard to impleading of Karamjit Singh as an additional party on the array of defendants. The only grievance of the petitioner is that in the guise of the impugned order, the respondent/plaintiff has filed a plaint containing additional facts when no such amendment was allowed by the trial Court under Order 6 Rule 17 CPC.

Perusal of the aforesaid extract leaves no manner of doubt that the trial Court only allowed the application under Order 1 Rule 10 CPC and consequent amendment in the plaint as per Order 1 Rule 10 CPC. If the respondent/plaintiff has filed an amended plaint incorporating any additional facts without their being any order permitting amendment of the plaint under Order 6 Rule 17 CPC, the petitioner may file an appropriate application (before the trial Court) expressing his grievance and the same would be decided by the trial Court, in accordance with law.

Disposed of accordingly.

(Rekha Mittal)
Judge

27.09.2016
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No