

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 7937 of 2015
Date of decision : February 2, 2016

Maina Devi (deceased) through L.Rs Mahabir Singh

..... Petitioner

Versus

Sita Ram and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Anurag Jain, Advocate
for the petitioner.

Mr. Vivek Khatri, Advocate and
Mr. Ram Avtar Sheoran, Advocate
for respondent Nos. 1 to 6.

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?

Amit Rawal, J (oral).

The petitioner-plaintiff is aggrieved of the order dated 15.9.2015 whereby the application seeking amendment to elaborate paragraph 4 of the plaint, has been declined.

Mr. Anurag Jain, learned counsel appearing on behalf of the petitioner submits that petitioner-plaintiff has filed the suit for declaration to the effect that land measuring 95 kanals 9 Marlas is owned and possessed by them being L.Rs of Gobind and as well as challenging the judgment and decree dated 30.11.1991 passed in Civil Suit No. 673 of 1991 titled as Sita Ram Vs. Gobind

and mutation No. 5477 and exchange decree dated 11.1.1996 passed in Civil Suit No.208-C titled as Sita Ram Vs. Om Parkash. During evidence of DW-1 it transpired that defendant Nos. 1 and 2 were minors and it is in this context the amendment was sought, which has erroneously and perversely been dismissed.

He further submits that in case, amendment is allowed, the plaintiff would not lead any fresh evidence.

Mr. Vivek Khatri, and Mr. Ram Avtar Sheoran, learned counsel appearing on behalf of respondent Nos. 1 to 6 submits that the foundation of the application seeking amendment of the plaint is wholly mis-conceived as there is no such admission or DW-1 has anywhere stated, in the cross examination, that Sita Ram and Khushi Ram were minors.

He further pointed out that the head note of the suit itself discloses that the suit titled as Sita Ram Vs. Gobind was instituted through minors. This fact was in the knowledge of the plaintiff and despite exercise of "due diligence", now sought to amend paragraph 4.

He further submits that the application in hand was moved when arguments in the main case were addressed. The plaintiffs moved an application for comparison of specimen signatures which was declined. The plaintiff has been instrumental in protracting the decision of the suit and realizing that he has not been able to prove the case, in essence, he was afraid of the adverse outcome of the suit then moved the present application.

I have heard learned counsel for the parties and

appraised the paper book and also gone through the cross examination of DW-1 and am of the opinion that on reading the entire cross examination of DW-1 it is nowhere surfaced the factum that Sita Ram and Khushi Ram were minors, rather it shows that when the suit aforementioned was filed the plaintiffs were minors and this fact was in the knowledge of the plaintiff, therefore, the application is lacking statutory requirement of law on an expression “despite exercise of due diligence”.

I am of the view that the amendment sought to be incorporated will not be essential and necessary for adjudication of the *lis* between the parties.

For the reasons stated above, the petitioner shall be at liberty to raise all the pleas at the time of arguments and not in the manner and mode sought.

The revision petition is devoid of merits.
Accordingly the same is dismissed.

(AMIT RAWAL)
JUDGE

February 2 , 2016
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