

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

CR No. 8294 of 2016

Date of decision : 08.12.2016

Tarsem Singh

....Petitioner

V/s

Guljinder Kaur & ors.

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Jasbir Singh, Advocate for the petitioner.

RAJAN GUPTA J.

Petitioner has impugned order dated 05.10.2016 passed by trial court dismissing his application under Order 6 Rule 17 CPC for amendment of plaint.

Order has been assailed on the ground that trial court ignored from consideration the factual aspects of the matter. Amendment sought would not change nature of the suit in any manner. Thus, impugned order deserves to be set-aside.

I have heard learned counsel for the petitioner and given careful thought to the facts of the case.

It appears plaintiff/petitioner filed a suit for declaration that he alongwith defendant no. 2 was owner in equal share of land measuring 15 kanals 06 marlas as described in the plaint. However, defendant no. 1 without any legal right had got a mutation sanctioned in his name. He prayed that same be declared null and void and the sale-deed dated 19.7.2010 executed by defendant no. 1 in favour of defendant no. 3 be also declared void. Suit was instituted in the year 2010 and had made

considerable progress. Instant application was moved recently seeking to amend the plaint on the ground that a Will executed by his father in favour of petitioner and defendant no. 2 was not in his knowledge earlier at the time of filing of suit. Same came to his notice only when he was removing debris of the house which had fallen down. Prayer has been rejected by court below observing that by allowing the amendment at this stage, nature of the suit would change. Moreover, it is unbelievable that the debris of house which had caved in five years back were not removed for such a long time. In my considered view application had been moved only with a view to delay the trial. I find no infirmity with the order passed by court below. Besides, trial has already commenced. No interference is called for in revisional jurisdiction of this court. Dismissed.

December 08, 2016
Ajay

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No