

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

CR No. 8375 of 2016

Date of decision : 13.12.2016

Paramjit Kaur & ors.

....Petitioners

V/s

Daulat Ram & ors.

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. M.S. Rana, Advocate for the petitioners.

RAJAN GUPTA J.

Present revision petition is directed against the order passed by Civil Judge (Jr. Division), Phillaur whereby amendment in plaint has been declined.

Learned counsel for the petitioners submits that plaintiffs-petitioners only want to clarify the stand. No new plea is being taken in the pleadings. Thus, application under Order 6 Rule 17 deserves to have been accepted by the court below.

I have heard learned counsel for the petitioners.

It appears that plaintiff-petitioner no. 1 filed a suit for declaration with a prayer to declare the suit land as joint hindu family/coparcenary/ancestral property, in alternative suit for joint possession as owner alongwith consequential relief of permanent injunction against the defendants. Defendants filed written statement and denied the averments made in the plaint. Thereafter, parties led their evidence. As the suit neared its culmination, instant application was moved by plaintiff-petitioner for amendment in plaint. Plea has been rejected by the court below observing

that proceedings were at their fag end. In the eventuality, amendment in the plaint as sought by plaintiff was allowed, it would lead to de-novo trial. I find no legal infirmity with the order. Admittedly, the case is at the stage of rebuttal evidence, if any and arguments. Moreover, defendant no. 1 Daulat Ram died on 30.07.2014 and it was thereafter plaintiff concluded her entire evidence. It is, thus, clear that plaintiff was aware of death of Daulat Ram in the year 2014 but no pleading was incorporated in the plaint in this regard. In my considered view, it is not a case where plaintiff could not have raised the plea earlier despite due diligence. Under the circumstances, proviso to Order 6 Rule 17 would be attracted. Admittedly, trial has not only commenced but may culminate soon. Moreover, plaintiff has already filed another suit claiming the same relief as sought in the amendment. There is, thus, no merit in the revision petition. Dismissed.

December 13, 2016

Ajay

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No