

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

CR No. 8160 of 2014

Date of decision : 24.09.2016

Gian Chand (deceased) thr. his LR's Atam Devi & ors.

....Petitioners

V/s

Ram Singh & ors.

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Parveen Hans, Advocate for the petitioners.

Mr. Jagjeet Beniwal, Advocate for the respondents.

RAJAN GUPTA J.

Plaintiffs-petitioners are aggrieved against order passed by trial court whereby application filed by them under Order 6 Rule 17 and Order 1 Rule 10 CPC for amendment of plaint and to implead Prem Devi as a defendant has been dismissed.

Learned counsel for the petitioners has assailed the order. He submits that impugned order is unsustainable as Prem Devi is necessary party to the suit and her presence before the court was necessary for complete and effective adjudication of the case. According to him, proposed amendment in the plaint is necessary in determining the real controversy between the parties. Thus, impugned order deserves to be set-aside.

I have heard learned counsel for the petitioners.

Plaintiff-Gian Chand (deceased) preferred a suit for declaration and prohibitory injunction to the effect that he was owner in possession of land in dispute measuring 26 kanals, 18 marlas being the legal heir of Shanti

Devi and Will dated 11.09.1989 and mutation dated 02.05.2007 sanctioned

pursuant thereto were null, void and liable to be set-aside. During the pendency of suit, plaintiffs moved an application under Order 6 Rule 17 and Order 1 Rule 10 CPC for amendment of plaint and to implead Prem Devi as a defendant on the ground that respondents had sold the land measuring 17 kanals 18 marlas in favour of Prem Devi vide sale-deed no. 3403 dated 11.12.2013 during the pendency of suit. Prayer has been rejected by the court below observing that if any portion of the suit land had been sold by defendants to any other person then it would be subject to doctrine of lis pendence. It, thus, rejected the prayer. I find no infirmity with the order passed by the court below. Admittedly, plaintiffs have already led their evidence and case is fixed for defendants evidence. Moreover, trial of the case has been sufficiently delayed.

In view of above, no interfere in revisional jurisdiction is called for. Dismissed.

September 24, 2016

Ajay

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No