

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-85-2016

Date of decision : 30.11.2016

Lajwanti @ Lajjo

... Petitioner

Versus

Ashok Kumar and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Avnish Mittal, Advocate
for the petitioner.

Ms. Gurnam Kaur Turka, Advocate
for the respondent(s).

AMIT RAWAL, J. (ORAL)

The petitioner-plaintiff is aggrieved of the dismissal of the application seeking amendment of the plaint at the evidence stage.

Mr. Avnish Mittal, learned counsel appearing on behalf of the petitioner-plaintiff submits that originally the following relief in the suit was sought:-

“Suit for declaration to the effect that the plaintiff is owner of the land measuring 190 sq. yards as shown by words A B C D in the site plan attached with the plaint situated at Banwari Market Rajpura Town, Tehsil Rajpura and part of khasra number 495 (1-13) situated within the revenue estate of village Banwari, Tehsil Rajpura;

And the sale deed dated 29.03.2007 executed by Ashok Kumar etc., in favour of Sat Pal Singh and Atma Singh defendants No.3 and 4;

And the sale deed dated 09.05.2007 executed by Sat Pal Singh and Atma Singh defendants No.3 and 4 in favour Nand Lal and Lachhman Dass defendants No.5 & 6 regarding the above mentioned land measuring 190 sq. yards out of khasra number 495 (1-13) situated within the revenue estate of village Banwari, Tehsil Rajpura are wrong, illegal and nullity qua the rights of the plaintiff and are liable to be ignored and set aside; AND

Suit for permanent injunction restraining the defendants their agents and attorneys from further alienating the property in dispute to some third person; AND

For permanent injunction restraining the defendant No.7 Narain Dass from delivering the possession to some third party illegally.”

However, during the pendency of the suit, the petitioner wanted to incorporate the paragraph No.8-A and two prayer clauses, one permanent injunction and the other declaration.

He further submits that during the pendency of the suit, ejectment proceedings have been rendered in favour of the petitioner and in lieu thereof, he has taken the possession and therefore, injunction sought to be incorporated for restraining the respondent(s)-defendant(s) from taking forcible possession and interfering in the peaceful possession.

He further submits that mutation dated 30.07.2015 was also required to be challenged, but the Court below has not taken into consideration the aforementioned fact and erroneously dismissed the application.

Ms. Gurnam Kaur Turka, learned counsel appearing on behalf of the respondent(s)-defendant(s) submits that as far as the mutation is concerned, the same has already been upheld by this Court in CWP

No.7690 of 2010 titled as “Ashok Kumar V/s Financial Commissioner (Appeals-I), Punjab, Chandigarh and others” decided on 05.04.2011 and as well as in LPA No.1205 of 2011 titled as “Smt. Lajwanti @ Lajo V/s Ashok Kumar and others” decided on 31.01.2012 and therefore, once the chapter regarding the same has already been settled, cannot be reopened. As regards the incorporation of subsequent events, she has no objection.

I have heard the learned counsel for the parties and appraised the paper book of the view that in view of the statement made by Ms. Gurnam Kaur Turka, learned counsel representing the respondent(s)-defendant(s), the amendments sought to be incorporated by adding paragraph 8-A and relief of permanent injunction is allowed.

However, the relief to challenge the mutation by way of declaration is hereby declined.

Accordingly, the impugned order under challenge is hereby modified.

Revision petition stands disposed of.

30.11.2016

Yogesh Sharma

**(AMIT RAWAL)
JUDGE**

✓

Whether speaking/reasoned **Yes/ No**

✓

Whether Reportable **Yes/ No**