

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

CR No.1435 of 2017.

Date of Decision: 01.03.2017.

Narinder Singh @ Swaran Singh

....Petitioner.

VERSUS

Tej Kaur, now deceased through her legal heirs and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

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

SNEH PRASHAR, J.

The instant revision petition has been filed assailing the order dated 22.09.2016 passed by learned Civil Judge (Junior Division), Kharar by virtue of which the application under Order VI Rule 17 read with Section 151 of the Code of Civil Procedure (for short, "CPC") of the petitioner-plaintiff for amendment of the plaint was dismissed.

The submissions made by Mr. Jaswinder Singh, learned counsel representing the petitioner have been considered.

Learned counsel for the petitioner contends that the civil suit for declaration was filed by the petitioner in the year 2008. The First Information Report against respondent No.2 – defendant No.2 on a complaint given by the petitioner to the police authorities for having prepared a fake death certificate showing the petitioner as dead, was

relevant facts regarding filing of application for conducting DNA test by the investigation officer in the criminal case and the proceeding thereafter had come into being during pendency of the suit, therefore, the same could not be earlier pleaded by the plaintiff but being important and necessary for proper and complete adjudication of the case need to be incorporated in the pleadings. To support his arguments, learned counsel relied upon **Shish Ram vs. Municipal Corporation Gurgaon and others, 2016(3) PLR 686.**

The judgment passed in **Shish Ram's** case (supra) was passed on its own facts. The facts of the case in hand are completely distinct from the facts in that case.

The reasons recorded by learned trial Court for dismissing the application of the petitioner are as under:-

“After considering the respective contentions raised by learned Counsel for the parties in the light of the pleadings and evidence led on record, I do not find any merit in the contentions raised by learned Counsel for the plaintiff. The plaintiff has sought the decree for declaration declaring the plaintiff as owner in exclusive possession of the suit property. The plaintiff has also sought the relief of declaration that Narinder Singh alias Swaran Singh are one and the same person as well as adopted son of Gurbax Singh and Tej Kaur defendant No.1 and also sought the relief of declaration that defendant No.2 is adopted son of Gurbax Singh son of Natha Singh and defendant No.1 Tej Kaur. The plaintiff has already led evidence in support of the pleadings that defendant No.2 is the adopted son of Tej Kaur. Mere registration of FIR and in

view of the order dated 25.7.2016 passed by the learned CJM Ropar, which is under challenge, no ground is made out for amendment of the pleadings at this stage of the case. Both the parties have already led their evidence and the case is at the final stage of rebuttal evidence and arguments. Moreover no DNA test has been conducted till date.”

Learned counsel for the petitioner failed to demonstrate any illegality or misreading of facts in the order of learned trial Court. There appears no reason for allowing an amendment for pleading the proceedings being conducted in the criminal case alleged to be registered at the instance of the petitioner-plaintiff. In case an amendment in the pleadings is allowed for the reasons mentioned, the litigation would never come to an end. The real controversy between the parties is clear from the respective pleadings of the parties. As mentioned in the impugned order, both the parties have already adduced evidence to substantiate their pleadings and the case has reached the final stage. It appears that application for amendment had been filed only with an intention to delay the disposal of the case. By introducing new pleadings the trial cannot be reopened after nine years.

Thus, there being no merit in the petition, it is hereby dismissed.

(SNEH PRASHAR)
JUDGE

01.03.2017.
jitender sharma

Whether speaking/ reasoned : **Yes/ No**

Whether Reportable : **Yes/ No**