

C.R. No.2072 of 2017 (O&M)
Date of Decision: 22.03.2017

Sarwan Singh and others ...Respondents

Briefly, the facts of case are that the petitioner is a non-resident Indian (NRI) and is a citizen of *Kenya*. The father of the petitioner, namely, Santokh Singh was also a resident of *Kenya* and was British passport holder. The father of the petitioner was having property in Jalandhar city. The details of the property were mentioned in the head note of the suit. After the death of father of the petitioner, the present petitioner filed a suit for declaration to the effect that he is owner in joint possession of 1/3rd share out of total property/two plots situated at Cool Road, Near Radium Station, Jalandhar City. The power of attorney of property, in dispute, was

in favour of the petitioner since his father was residing in *Kenya* and did not come to India in the month of April 1992, which is clear from the entry of the passport. Respondent no.1, by forging power of attorney, sold the property of his father-Santokh Singh further, who died on 08.12.1999 at the age of 99 years. Petitioner has claimed in the suit that he was in possession of that property and the respondents be restrained from interfering in the peaceful possession.

During pendency of the suit, an application was moved for amendment of the plaint, which was dismissed vide impugned order dated 15.03.2017, which is subject matter of challenge in the present petition.

The impugned order has been passed while declining the request of the plaintiff-petitioner on the ground that the relief of joint possession has already been sought in the original plaint dated 22.11.2012. By way of amendment, the petitioner wants to add in the head note and prayer the relief of joint possession. Nothing is mentioned as to how that amendment was necessary in the pleadings of the suit.

Learned counsel for the petitioner submits that the necessary amendment is required as he wants to amend the relief clause and the plaint only to the extent that plaintiff is not in possession and defendants No.1 and 2 have secured the possession of the suit land by illegal means and he wants to claim relief of joint possession of the suit land against defendants No.1 and 2. Learned counsel also submits that he does not want to cause delay in any manner and does not want to adduce any evidence and the evidence is already available on record.

Heard the arguments of learned counsel for the petitioner and have also perused the impugned order as well as other documents available

on record.

After perusal of impugned order as well as after hearing the arguments and on perusal of application, it is not clear as to how this amendment is necessary. Petitioner-plaintiff has filed a suit for declaration to the effect that he is owner in joint possession of 1/3rd share out of total property, whereas, in the amendment sought, he is praying for possession of suit land along with other reliefs and also a decree of joint possession in his favour against defendants No.1 and 2. The relief of joint possession had already been sought in the suit and again by way of amendment, he is seeking joint possession by mentioning in the head note and in the relief clause. It does not make any difference as it has already been claimed in the suit. Neither any reason has been given as to how this amendment is necessary and why it was not mentioned earlier in the headnote as well as in the prayer clause nor any argument has been raised. The prayer, which has been sought for amendment in the application, is already a part of the earlier suit.

No ground is made out to interfere in the impugned order dated 15.03.2017 passed by Civil Judge (Senior Division), NRI cases, Jalandhar and the revision petition, being devoid of any merit, is hereby dismissed.

(DAYA CHAUDHARY)
JUDGE

22.03.2017

gurpreet

Whether speaking/reasoned

Yes

Whether Reportable

No