

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.227 of 2014 (O&M)
Date of decision: 10.05.2017

Harnek Singh and others

... Petitioners

Vs.

Kewal Singh and another

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Amar Vivek, Advocate
for the petitioners.

Mr. B.S. Sidhu, Advocate
for the respondents.

RAMESHWAR SINGH MALIK, J. (ORAL)

Feeling aggrieved against the impugned order dated 12.12.2013 (Annexure P-1) passed by the learned trial Court, whereby their application for amendment of the plaint was dismissed, plaintiffs have approached this Court by way of instant revision petition filed under Article 227 of the Constitution of India, for setting aside the impugned order.

Notice of motion was issued.

Heard learned counsel for the parties.

It is a matter of record that suit filed by the plaintiffs-petitioners was pending for more than four years, when they moved the application for amendment of the plaint under Order 6 Rule 17 read with Section 151 of the Code of Civil Procedure ('CPC' for short). The delay on their part was one of

the ground for dismissal of their application. It is also a matter of record that defendants' evidence was going on. However, with a view to overcome these difficulties being faced by him, learned counsel for the petitioners has fairly stated that except tendering into their evidence copies of jamabandis and amending the plaint to the limited extent, as pointed out at page 2 of the impugned order, petitioners shall not lead any other evidence. He also submits that petitioners are ready and willing to compensate the respondent-defendant No.1 by payment of reasonable costs.

A bare perusal of the impugned order would show that the limited amendment, which was being sought by the petitioners in their plaint, was that they wanted to add at page 2 of their plaint after words South: Amrik son of Kartar Singh, comprised of Khasra No.120, measuring 0 Kanal, 11 Marlas Khewat No.121 Min, Khatoni No.246. Similarly, plaintiffs wanted to add after line No.3 of para 1 of the plaint, "The suit house is comprised of Khasra No.120 measuring 0 Kanal 11 Marlas. In addition to the abovesaid limited amendment sought in the plaint, plaintiffs wanted to tender into their evidence copies of jamabandis for the year 1960-61, 1966-67, 1981-82, 1985-86, 1990-91, 1995-96, 2000-01 and 2005-06.

At this stage, it is pertinent to note here that learned counsel for the respondent-defendant No.1 has vehemently opposed the present revision petition, contending that the plaintiffs-petitioners wanted to add another property exclusively owned by defendant No.1, in their suit, which is not at all permissible in law.

To answer this, learned counsel for the petitioners has fairly stated that petitioners never intended to include in their suit the property exclusively

owned by defendant No.1 and they will not question his ownership qua his property.

After hearing the learned counsel for the parties at considerable length and going through the record of the case, this Court is of the considered view that instant revision petition deserves to be accepted to the limited extent, pointed out hereinabove. It is so said because let the petitioners-plaintiffs have full opportunity to put up their best case before the Court, even as per their amended pleadings. However, the petitioners will compensate respondent-defendant No.1 by payment of Rs.10,000/- as costs.

Accordingly, the impugned order dated 12.12.2013 (Annexure P-1) passed by the learned trial Court is set aside. Application of the petitioners under Order 6 Rule 17 read with Section 151 CPC would stand allowed, however, only to the limited extent noted by the learned trial Court, at page 17 of the paper book and clarified hereinabove.

It is also made clear that except the abovesaid limited amendment, plaintiffs-petitioners shall not be entitled to lead any other evidence. They would be permitted only to tender the copies of abovesaid jamabandis on the record. Thereafter, the learned trial Court shall proceed further with the matter deciding it at an early date, in accordance with law.

Resultantly, with the abovesaid observations made and directions issued, present revision petition stands disposed of.

[RAMESHWAR SINGH MALIK]
JUDGE

10.05.2017
vishnu

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No