

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

C.R. No.308 of 2016 (O&M)

Date of Decision:21.02.2017

Ravi Bhalla

.....Petitioner

Versus

Gurjit Singh and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK.

**Present: Mr.Jaideep Verma, Advocate,
for the petitioner.**

**Mr.M.S.Longia, Advocate,
for respondent No.2.**

RAMESHWAR SINGH MALIK, J.(Oral)

Present revision petition is directed against the order dated 17.10.2015 (Annexure P-6) passed by the learned trial Court, whereby application for amendment in the plaint moved by the petitioner-plaintiff, was declined.

Notice of motion was issued and in the meantime, learned trial Court was directed not to pronounce the final order.

Heard learned counsel for the parties.

It is a matter of record that the plaintiff-petitioner has filed a suit for declaration so as to challenge the sale-deed dated 19.10.2010. This sale-deed was suffered by defendant No.1 in favour of defendant No.2 on the basis of power of attorney given by the plaintiff-petitioner. The allegation of the plaintiff-petitioner is that defendant No.1 sold the excess area misusing his authority as power of attorney holder of the plaintiff.

When the evidence of the defendants was going on, it transpired that defendant No.2 has further sold the suit land, in favour of one Smt.Surinder Kaur vide sale-deed dated 27.01.2011. Immediately after coming to know about this later development, plaintiff-petitioner moved the application under Order 6 Rule 17 of the Code of Civil Procedure (for short “the CPC”) seeking amendment in the plaint, so as to challenge the later sale-deed dated 27.01.2011 as well and also to implead Smt.Surinder Kaur as defendant No.3. However, learned trial Court failed to appreciate these relevant aspects of the matter, in the correct perspective, while passing the impugned order, which cannot be sustained.

During the course of hearing, when it was asked from the learned counsel for respondent No.2 as to what prejudice is likely to be caused to the defendants in allowing the amendment in the plaint, he had no answer and rightly so, it being a matter of record.

It is the settled principle of law that rules of procedure are meant for advancing the cause of justice. It is also true that every court of law must make an endeavour to avoid multiplicity of litigation between the parties, with a view to do complete and substantial justice. Having said that, this Court feels no hesitation to conclude that the learned trial Court mis-directed itself, while passing the impugned order and the same cannot be sustained, for this reason as well.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that since the impugned order has been found suffering from patent illegality, the same cannot be sustained.

Accordingly, the impugned order is hereby set aside. The application of the plaintiff-petitioner seeking amendment in the plaint would stand allowed. Learned trial Court is directed to permit the plaintiff-petitioner to file his amended plaint. The defendants shall be granted an opportunity to file their amended written statement. Thereafter, if any additional issue is required to be framed or already framed issues are required to be re-casted, appropriate order shall be passed by the learned trial Court, proceeding further with the suit to decide the same, in accordance with law.

Resultantly, with the above-said observations made and directions issued, the present revision petition stands allowed, however, with no order as to costs.

February 21, 2017
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(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No