

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

**CR No.2712 of 2017
Date of decision:19.4.2017**

Harchand Singh

...Petitioner

Versus

State Bank of Patiala and another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr.Arihant Jain, Advocate for the petitioner.

RAMESHWAR SINGH MALIK, J. (Oral)

Present revision petition, at the hands of the plaintiff, filed under Article 227 of the Constitution of India, is directed against the order dated 3.3.2017, whereby application of the petitioner, seeking amendment in the plaint, was dismissed by the learned trial Court.

Heard learned counsel for the petitioner.

It is not in dispute that original suit filed by the plaintiff-petitioner was a simple suit for redemption. It is also not in dispute that issues had already been framed and trial had already commenced. Now, by way of amendment, petitioner-plaintiff wanted to convert his suit for redemption into a suit for declaration, by laying challenge to the mortgage-deed as well as to judgment and decree dated 8.6.1976, which was not at all subject matter of the suit originally filed.

It is also a matter of record that issues were framed way back on 21.12.2013 and two prosecution witnesses have already been examined. When the plaintiff-petitioner was not leading his evidence, even costs of Rs.1,000/- was imposed on him vide order dated 2.12.2015. At this stage, plaintiff moved an application for amendment on 28.9.2016, after inordinate

long period of about three years, after framing of issues. Having said that, this Court feels no hesitation to conclude that the learned trial Court was well within its jurisdiction to pass the impugned order and the same deserves to be upheld.

It is also not in dispute that factum of mortgage-deed as well as judgment and decree dated 8.6.1976 were well known to the petitioner right from day one. It is not even his pleaded or argued case that these documents came to his notice after framing of the issues. Now, petitioner wants to change the nature of suit completely, which is not the scope of Order 6 Rule 17 CPC. Under these peculiar facts and circumstances of the case, it can be safely concluded that the learned trial Court committed no error of law, while passing the impugned order and the same deserves to be upheld, for this reason also.

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 the instant civil revision petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

Resultantly, with the above-said observations made, the present civil revision petition stands dismissed, however, with no order as to costs.

19.4.2017
mks

(RAMESHWAR SINGH MALIK)
JUDGE

Whether Speaking/reasoned : Yes/No

Whether Reportable : Yes/No