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

**Civil Revision No.357 of 2014
Date of Decision: 26.07.2017**

AVTAR SINGH ETC

.....Petitioners

Vs

JHANDA SINGH ETC

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Satinder Khanna, Advocate
for the petitioners.

Mr. Vaibhav Sehgal, Advocate
for the respondents.

RAJ MOHAN SINGH, J. (Oral)

[1]. Petitioner has assailed the order dated 16.12.2013 passed by Civil Judge (Sr. Divn.) Ludhiana vide which prayer for amendment of the plaint was declined.

[2]. Brief facts are that the plaintiff/petitioner wanted to incorporate factum of 3 *Kanals* 11 *Marlas* to be part of sale deed dated 01.08.1991 in para No.7 of the plaint. According to the plaintiff, the aforesaid amendment was just an elaboration of headnote and prayer clause of the original plaint.

[3]. Learned counsel for the petitioner submitted that the trial Court declined the aforesaid amendment on the ground that

in para No.7 of the plaint repeated mentions have been made with regard to the suit land which includes land measuring 3 *Kanals* 11 *Marlas* comprised in *Khasra* Nos.46//9/2/1 and 10/1/3. The amendment in para No.7 was not considered fit to be allowed.

[4]. As regards the second amendment, learned counsel submitted that five of the defendants were ordered to be allowed to be transposed as co-plaintiffs with the petitioner. As per the case set up by the plaintiff, the plaintiff along with the defendants were having $\frac{1}{7}$ th share each in the ancestral property. With the transposition of the aforesaid five defendants as co-plaintiffs, the entitlement would be increased to the tune of $\frac{6}{7}$ th share in favour of the plaintiffs. In this way instead of word ' $\frac{1}{7}$ th' incorporation of word ' $\frac{6}{7}$ th' was sought.

[5]. Learned counsel for the respondent submitted that so far as prayer for amendment in respect of 3 *Kanals* 11 *Marlas* in para No.7 of the amended plaint is concerned, the trial Court has already given detail reasons to discard it, as necessary prayer has already been incorporated in the headnote and prayer clause of the original plaint. The second prayer is totally dependent upon the fate of the connected suit which involves the subject matter i.e. whether the suit property in the hands of Ram Chand @ Ram Singh was ancestral or not?

[6]. I have heard learned counsel for the parties.

[7]. Having considered the submissions made by learned counsel for the parties, without commenting upon the merits of the case, I am of the view that the amendment in question can be allowed without giving any opportunity to the plaintiff/petitioner to lead any evidence in respect of the proposed amendment. The case is already fixed for arguments.

[8]. Consequently, at this stage, only an amended plaint is allowed to be placed on record and the trial Court shall decide the case in accordance with law. The trial Court shall make every endeavour to decide the suit itself on some early actual date.

[9]. Petition stands disposed of.

July 26, 2017

Atik

**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No