

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.3823 of 2014 (O&M)
Date of decision: 21.02.2017

Sumana Devi

... Petitioner

Vs.

Darshan Pal and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. V.M. Gupta, Advocate
for the petitioner.

Respondents No.1 & 4 ex-parte.

None for respondent No.2.

Mr. Jasbir Rattan, Advocate and
Mr. Raveesh Sheokand, Advocate
for respondent No.3.

Respondent No.5-deleted.

None for respondents No.6 & 7.

RAMESHWAR SINGH MALIK, J. (ORAL)

Present revision petition is directed against the order dated 07.05.2014 (Annexure P-1) 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.

Heard learned counsel for the parties.

During the course of hearing, when confronted as to what prejudice is likely to be caused to the defendants-respondents, learned counsel for

respondent No.3 could not point out any such prejudice and rightly so, it being a matter of record. No doubt that the applicant-petitioner/plaintiff ought to have been more careful, while filing the suit including all the properties therein. However, when the particulars of the properties, sought to be included in the suit by way of amendment, are not in dispute nor the ownership thereof is being disputed by the defendants, coupled with the fact that the plaintiff has filed the suit for declaration on the basis of inheritance, the learned trial Court misdirected itself, while passing the impugned order, declining the prayer of the plaintiff for amendment in the plaint, with a view to include one property of village Bibipur.

In fact, under the peculiar facts and circumstances of the case obtaining on the record, this Court is of the considered opinion that allowing the application of the plaintiff-petitioner for amendment in the plaint would not only avoid multiplicity of litigation between the parties, but it shall also facilitate the learned trial Court to arrive at a just conclusion, with a view to do complete and substantial justice between the parties. It is the settled proposition of law that every Court of law must make an endeavour to avoid multiplicity of litigation between the parties, while effectively deciding the lis between the parties.

It is also pertinent to note here that the application for amendment in the plaint was filed by the plaintiffs, when their evidence was yet to start. In this view of the matter, it can be safely concluded that neither the application for amendment was filed at a very belated stage of the suit nor any prejudice was likely to be caused to the defendants. Further, nature of suit was also not going to be changed nor any other alleged accrued right in favour of the

defendants was likely to be prejudiced. However, since the learned trial Court failed to appreciate these material aspects of the matter, while passing the impugned order, the same cannot be sustained, 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 since the impugned order dated 07.05.2014 (Annexure P-1) passed by the learned trial Court has been found suffering from patent illegality, the same cannot be sustained. Accordingly, the impugned order is hereby set aside. The revision petition deserves to be accepted. Application for amendment in the plaint moved on behalf of the plaintiffs would stand allowed.

After receiving the amended plaint on behalf of the plaintiffs, learned trial Court shall grant an opportunity to the defendants to file their amended written statement. Thereafter, if any additional issue is to be framed or any other issue already framed is to be re-casted, the learned trial Court shall pass the appropriate order and the suit shall proceed further, in accordance with law.

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

[RAMESHWAR SINGH MALIK]
JUDGE

21.02.2017
vishnu

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No