

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No. 4295 of 2014

Date of decision : 23.01.2017

Raj Kaur & ors.

....Petitioners

V/s

Gurmukh Singh

....Respondent

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Parminder Singh, Advocate for the petitioners.
Mr. Gaurav Arora, Advocate for the respondent.

RAJAN GUPTA J.

Present revision petition is directed against the order passed by Civil Judge (Jr. Division), Karnal whereby amendment in plaint has been declined.

Learned counsel for the petitioners submits that amendment is necessary for just adjudication of the case and to avoid multiplicity of litigation between the parties. As suit filed for permanent injunction was not maintainable, plaintiffs seek redress of their grievance under section 77 of the Registration Act and thus, moved instant application seeking amendment in the prayer clause. He has relied upon judgment reported as *Kamal Mitra Chenoy & anr. vs. M/s Dunlop India Ltd & anr. 2015(5) RCR (Civil) 958* and *Subhash Chandra & anr. vs. Positive Television (P) Ltd. & ors. 2015(5) RCR (Civil) 790*.

Prayer has been opposed by learned counsel for the respondent. He submits that plaintiffs cannot change the nature of suit by seeking amendment in the prayer clause. According to him, application has been rightly dismissed by the court below.

I have heard learned counsel for the parties.

It appears that plaintiffs instituted a suit for permanent injunction restraining the defendant from alienating, mortgaging or leasing out the suit land in favour of any other person and also from dispossessing them. During the pendency of suit, plaintiffs moved instant application under order 6 Rule 17 CPC seeking amendment in the prayer clause. In the application, it has been averred that as the plea of plaintiffs was rejected by the authorities with regard to registration of sale-deed qua the suit land, only remedy available with them was to amend the instant suit for permanent injunction to one under section 77 of the Registration Act. Plea has been rejected by the court below observing that plaintiffs could not change the nature of suit as the same was not permissible under the provisions of Order 6 Rule 17 CPC. Moreover, amendment as sought is not necessary for determining the real controversy between the parties in the suit filed for permanent injunction. I find no legal infirmity with the order. It appears that concerned authority has already dismissed the plea of the plaintiffs-petitioners for registration of the sale-deed. Dismissal of the application by the authority for registration of documents may give rise to fresh cause of action but this would not give any ground to convert the suit for injunction simpliciter to a suit for direction to the authority to register the document in question. Judgments in *Kamal Mitra Chenoy's case (supra)* and Subhash Chandra's case (supra) are not applicable to the facts of the instant case. Instead of amendment in the instant suit, plaintiffs could have availed the alternate remedy. There is, thus, no merit in the revision petition. Dismissed.

January 23, 2017

Ajay

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No