

CR-4546-2017

Date of Decision : 14.07.2017

Kulwinder Kaur and others

.....Petitioners

versus

Mohinder Kaur

....Respondent

CORAM : HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. Rituraj Singh, Advocate
for the petitioners.

M.M.S. BEDI, JUDGE (ORAL)

Vide impugned order dated 26.04.2017, the Civil Judge (Junior Division), Mohali has dismissed the application for amendment of the written statement filed by the defendant/petitioners.

Perusal of the file indicates that the plaintiff/respondent Mohinder Kaur, widow of Sampuran Singh, after the death of her husband and son, Rajwant Singh filed, a suit for separate possession by way of partition claiming herself to be owner of 1/5th share. She averred in the plaint that after the death of Sampuran Singh, the property was inherited by his sons, Jaspal Singh and Rajwant Singh besides the plaintiff and after the death of Rajwant Singh, the house in dispute, has been inherited by the plaintiff and the defendant/petitioners who are the widow, daughter and sons of Rajwant Singh.

The defendant/petitioners, had, in para 1 of the written statement, admitted that the property had been inherited by the defendant and the plaintiff after the death of Sampuran Singh and Rajwant Singh. By way of amendment, the defendant/petitioners had sought the incorporation of a plea as follows:-

“That the contents of Para No. 1 of the plaint is correct upto the extent that the suit property is owned and possessed by Sampuran Singh and Rajwant Singh was also died. Rest of the para is wrong hence, denied. It is further, pertinent to mention here that defendants have inherited the property of Rajwant Singh which was self acquired property of Rajwant Singh. It is specifically denied that the share of the property of Sampuran Singh ever devolves to Rajwant Singh deceased. It is further, pertinent to mention here that the whole property of Sampuran Singh was acquired by Jaspal Singh S/o Sampuran Singh only. Hence no share of the property of Sampuran Singh was left, which has to be devolves to Rajwant Singh.”

I have heard learned counsel for the petitioners and gone through the impugned order. The defendants want to take the plea which is absolutely inconsistent with the admission made in the written statement. Withdrawal of the admission at a belated stage when the case is at the stage of defendants' evidence, cannot be permitted by way of

allowing the proposed amendment.

Since the issues in the present case had been framed on 16.03.2016 and the plaintiff has already produced the evidence, the case being at the stage of defendants' evidence, the application of defendants for amendment has rightly been dismissed.

No ground for interference in the impugned order exists.
The revision is thus dismissed.

(M.M.S. BEDI)
JUDGE

14.07.2017
Neha

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No