

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

CR No.5204 of 2016

Date of decision:10.7.2017

Sushila Sharma and another

...Petitioners

Versus

Seema Sharma and another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr.Mohit Jaggi, Advocate for the petitioners.
Mr.J.S.Bagga, Advocate for respondent No.1.

RAMESHWAR SINGH MALIK, J. (Oral)

Feeling aggrieved against the impugned order dated 13.7.2016 (Annexure P-6) passed by the learned trial Court allowing the application of the plaintiff under Order 6 Rule 17 of the Code of Civil Procedure, permitting her to amend her plaint, defendants have approached this Court by way of present civil revision petition under Article 227 of the Constitution of India, for setting aside the impugned order.

Notice of motion was issued.

Heard learned counsel for the parties.

Plaintiff-wife filed a suit under the Hindu Adoption & Maintenance Act for claiming arrears of maintenance and also for future maintenance from her husband-defendant. She also made a prayer that her husband should be restrained from creating any third party interest in the suit property. During the pendency of the suit, defendant-husband sold the suit property to none-else but to his own mother. It seems that neither the

present petitioner, who is mother-in-law of the plaintiff nor her son were bonafide litigants. Their common and ulterior motive seems that the plaintiff must not get any kind of relief in her suit. Their common object was also to get the suit rendered as infructuous.

In such a situation, neither the plaintiff can be said to be a bonafide purchaser nor a bonafide litigant. Such a dishonest litigant has no place before the court of law. Mother and son both were trying to play smart with the plaintiff as well as with the court so as to achieve their ulterior motive. They have been found proceeding on a common malafide approach. Having said that, this Court feels no hesitation to conclude that the learned trial court was well within its jurisdiction to allow the application of the plaintiff, seeking amendment in her plaint and the impugned order deserves to be upheld.

Under the peculiar facts and circumstances of the case in hand as noticed hereinabove, strict principle of law will not be attracted against the plaintiff. It is so said because denial of amendment of the plaint would have caused a glaring injustice to the plaintiff. Marital status of the plaintiff is not in dispute. Petitioner is the mother-in-law of the plaintiff-respondent. Husband of the plaintiff is staying abroad. He is pursuing the present wholly unwarranted and proxy litigation in connivance with his mother. In this view of the matter, instant one has been found to be a frivolous litigation and the present revision petition is liable to be dismissed with costs.

During the course of hearing, learned counsel for the petitioner could not point out any patent illegality or perversity in the impugned order, which may warrant interference, at the hands of this Court, while exercising its revisional jurisdiction under Article 227 of the Constitution of India.

The impugned order is supported by sound reasons, because of which no fault can be found with it and the same deserves to be upheld, for this reason as well.

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 impugned order deserves to be upheld. Instant civil revision petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail.

Accordingly, the present civil revision petition is dismissed with costs, which are quantified at Rs.30,000/- to be paid by the petitioner to the plaintiff-respondent before the learned trial court within a period of one month or on the date already fixed whichever is earlier.

Resultantly, with the above-said observations made, the present revision petition stands dismissed, however, with costs as indicated above.

10.7.2017
mks

(RAMESHWAR SINGH MALIK)
JUDGE

Whether Speaking/reasoned : Yes/No
Whether Reportable : Yes/No