

234

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

**Civil Revision No.5224 of 2016 (O&M)
Date of Decision: 04.10.2017**

JASWINDER KAUR

.....Petitioner

Vs

VARINDER KAUR & ORS

....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. S.S. Gurna, Advocate
for the petitioner.

Mr. J.S. Brar, Advocate
for respondent No.1.

RAJ MOHAN SINGH, J. (Oral)

[1]. Petitioner has filed this revision against the order dated 26.07.2016 passed by the Civil Judge (Jr. Divn.) Patiala whereby application under Order 6 Rule 17 CPC filed by the plaintiff for amendment of the plaint was allowed.

[2]. In para Nos.3 and 4 of the plaint, following pleadings were made by the plaintiff:-

“3. *That the parents of the parties had only female issues and as such parents of the parties used to visit usually at matrimonial homes of the parties who were married. Plaintiff served her parents*

who used to visit at the house of the plaintiff at Mansa as well as at Patiala. Mother of the plaintiff executed a Will on 05.07.2005 at Mansa out of her free will without any coercion and undue influence and the said Will was duly witnessed by Pulwinder Singh Numberdar and Satbir Singh Advocate of Mansa and it is duly attested by the notary public Sh. Murli Dhar Singla and after death of Jasbir Kaur mother of the parties, plaintiff succeeded to her estate including the suit property. As such plaintiff became owner in possession of the suit property.

4. *That after the death of father of the parties, movable assets including bank balances were distributed among the five sisters as per his sweet Will and defendant No.3 Sukhpal Kaur used to control the papers being local resident of Patiala at that time as plaintiff used to visit from Mansa to Patiala to look after her parents and original Will dated 05.07.2005 is in possession of the defendants and plaintiffs.”*

[3]. The last words appearing in para no.4 were sought to be deleted on the ground that the original Will dated 05.07.2005 was in possession of defendant No.3.

[4]. The indulgence has been granted by the trial Court in accepting the application for amendment of the plaint in terms of Order 6 Rule 17 CPC.

[5]. Learned counsel for the petitioner submitted that with

the acceptance of the application for amendment of the plaint
the onus to prove the relevant issue would be materially shifted.

[6]. Learned counsel for respondent No.1 submitted that
the suit is itself at the initial stage and while dealing with prayer
for amendment, the Court is not supposed to decide the case on
merits.

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

[8]. Since the suit is itself at the initial stage, the
amendment in the pleadings has to be liberally construed at this
stage. The indulgence shown by the trial Court is not proved to
be suffered with any error of jurisdiction or with any perversity.

[9]. This revision petition is accordingly dismissed.

October 04, 2017

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No