

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

CR No.5610 of 2017

Date of decision : 24.08.2017

Dalip Singh and others

...Petitioners

Versus

Mohinder Kaur

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Amardeep Singh Gill, Advocate for the petitioners.

ANIL KSHETARPAL, J. (ORAL)

The defendants have filed this revision petition against the order passed by the learned trial Court permitting the amendment of the head note of the plaint.

The plaintiff had filed a suit for possession of the property bearing No.H-41, Abadpura, Jalandhar comprised of Khewat No.3395, Khatauni No.3964 and Khasra Nos.18029/3626 (8-5). In para No.3 of the plaint, the plaintiff had mentioned that Chanan Ram had gifted the half share of the property to the plaintiff vide gift deed and remaining half share was purchased from Chanan Ram by the plaintiff. The pleadings in para No.3 of the original plaint are extracted as under:-

“3. That Chanan Ram gifted away 1/2 of the property to the plaintiff vide gift deed and 1/2 of the property was sold away by Chanan Ram to the plaintiff. The mutation to this effect was also sanctioned in the name of the plaintiff. Copy

of the sale deed in favour of Chanan Ram, copy of gift deed and sale deed in favour of the plaintiff and copy of jamabandi are enclosed herewith with the plaint.”

When the evidence of the plaintiff was going on, it was realised that in the head note of the plaint, description of only half share of the property has been given inadvertently. Therefore, the application was moved under Order 6 Rule 17 CPC seeking amendment of the plaint. The application was allowed by the Court while observing as under:-

“4. It is observed that in para No.3 of the plaint, it is mentioned that half of the property was gifted to her by Chanan Ram and half of the same was purchased by her from Chanan Ram but in the head note of the plaint relief regarding whole of the property has not been sought. If the plaintiff is not permitted to amend the plaint he will be barred to file a suit regarding the remaining half of the property, so in order to completely and effectively decide the matter between the parties, plaintiff is permitted to amend the plaint. However, plaintiff has caused delay in the decision of the present suit by way of amendment, so he is burdened with cost of Rs.1000/- which will be paid by plaintiff to the defendants. Amended plaint has already on file. Now to come up on 02.08.2017 for filing amended written statement.”

The defendants have filed this revision petition challenging the aforesaid order.

Learned counsel for the defendants-petitioners has argued that the trial had commenced and in view of the proviso to Order 6 Rule 17 CPC, the amendment could not be allowed unless the Court records a finding that in spite of due diligence, the plaintiff could not plead such facts.

I have considered the submission. In para No.3 of the plaint reproduced above, the description of the entire property has been given. It is only due to inadvertent mistake, the description of the half share of the property in the head note of the plaint was not given. The learned trial Court has only permitted the correction of an inadvertent mistake. Suit is for possession of the property.

In these circumstances, there is no good ground to interfere with the order passed by the trial Court.

Revision petition is dismissed.

24.08.2017

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No