

In the High Court of Punjab and Haryana at Chandigarh

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CR No.6557 of 2016 (O&M)

Date of decision: 18.8.2017

HARJEET SINGH AND ANR

.....petitioners

Versus

KULDEEP SINGH AND ORS

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. R.C.Sharma, Advocate,
for the petitioners.

Mr.Aman Dhir, Advocate
for respondent No.1.

RAJ MOHAN SINGH, J.(oral)

Petitioners have challenged the order dated 8.9.2016 passed by Additional Civil Judge (Sr.Divn.) Nakodar vide which prayer for amendment of the written statement was declined.

On 30.9.2016, following order was passed by this Court:-

“Learned counsel for the petitioners contends that the proposed amendment is an elaboration of defence already taken in para No.3 of the written statement.

Notice of motion for 17.10.2016.”

The original stand taken by the defendants in para No.3 of the written statement reads as under:-

“3. That in fact the property is ownership of defendant No.1 and 4 who have purchased this property from Gian Singh and Ravinder Singh. One Jaswinder Singh s/o Pargat Singh was tenant of this 80 mls property under Gian Singh and Ravinder Singh and he was running his business under the name and style of M/s Vishkarma Motor Garrage Jalandhar Road, Nakodar and he filed one suit for permanent injunction Civil Suit No.146 of 2008 decided on 16.1.2010 against Harjit Singh and the said suit was dismissed with costs and thereafter Harjit Singh filed Ejectment petition under Section 13 of East Punjab Urban Rent Restriction Act in the Hon'ble Court of Smt.Rajni Chokra CJJD Nakodar who was kind enough to allow the ejectment petition vide judgment dated 19.2.2011 Ejectment Application No.13 of 2008. Thereafter, with the intervention of respectables lawful compromise was effected in between the parties and Jaswinder Singh delivered lawful possession of the property to Harjit Singh. Said Pritam Singh Roopra never came in possession of the suit property.”

Concededly, the case has reached up to the stage of

arguments. Learned counsel for the petitioners submits that the proposed amendment is just an elaboration of the stand already taken in para No.3 of the original written statement. Now the proposed amendment is to the following effect:-

1. "That in Preliminary objection No. 3 in line No. 1 applicants want to delete **"is the ownership of Defendant No 1 and 4 who have purchased this property from Gian Singh and Ravinder Singh"** and want to add **"measuring 80mls was purchased by Defendant No 1 to the extent of 60mls vide Registered Sale Deed. Dt 04-1.2007,"** Document No. 3701 from Gian Singh who executed the Regd. Sale Deed for himself and as General attorney of Ravinder Singh, Ranjit Singh Sons of, and Karamjit Kaur, Manjit Kaur, daughters of Gurcharan Singh through Special attorney Harminderjit Singh s/o Mahinder Singh and similarly property measuring 20mls was purchased by Defendant No 4 Kiran Sharma from Gian Singh who executed the Regd Sale Deed for himself and as General attorney of Ravinder Singh, Ranjit Singh Sons of, and Karamjit Kaur, Manjit Kaur Daughters of Gurcharan Singh through special attorney Harminderjit Singh s/o Mahinder Singh vide Regd

Sale Deed dated 04-01-2007, Document No.3702.

Thereafter Ravinder Singh filed suit for declaration vide Civil Suit No 170 A of 2009, Date of Institution 14-05-2009 and the same was pending in the Hon'ble Court of Smt Rajni Chokra CJJD Nakodar and with the intervention of respectable, compromise was effected and by virtue of compromise dated 08-10-2010 statements of parties were recorded and as per compromise, property measuring 24mls on the southern side was given to Ravinder Singh Roopra (36'-10 ½ " *178') and Harjit Singh and Kiran Sharma i.e defendant Nos. 1 and 4 came in possession as owner on the northern side measuring 56mls i.e (86'-1 ½ " * 178') proportionately by raising intervening wall and mutation was also got sanctioned accordingly.

b) That similarly applicants wants to add preliminary objection No 8 i.e "That property bears Khasra No. 75//17/2 (0-15), 18/2(1-9),24/1(1-16) but the same have not been mentioned by the plaintiffs in the head note of the plaint and as such suit is liable to be dismissed " ,

c) That similarly applicants want to add preliminary objection No 9 i.e That said Ravinder Singh as per

mutation No. 5794 has further sold property measuring 24 mls in favour of Balwinder Kaur w/o Ranjit Singh, Gurmeet Kaur w/o Hardev Singh and Bimal Kaur w/o Magh Singh and as such above mentioned Balwinder Kaur etc are necessary parties and suit is defective one.

d) That similarly plaintiff/ applicant want to add Para No.13-A in the written statement.

During the course of arguments, learned counsel for the petitioners submitted that the proposed amendment to the extent of elaboration of original stand taken by the defendants in para No.3 of the written statement be taken notice of by this Court and to that extent the amendment in question be allowed subject to payment of adequate costs.

Learned counsel for respondent No.1, however, opposed the prayer for amendment to the hilt and submitted that the case has reached up to the stage of arguments and no evidence was led by the petitioners in the aforesaid context of proposed amendment.

The amendment of the written statement stands on different pedestal as compared to amendment in the plaint. Even the defendants are entitled to take inconsistent plea in the proposed amendment. In the case in hand, the interest of justice would be met if the defendants are allowed to amend the

written statement to the extent of elaborating the original stand taken in para No.3 of the original written statement without leading any further evidence on record. To that extent the amendment of the written statement is allowed, however, subject to payment of costs of ₹ 25,000/- to be paid to the respondents in equal proportions. Payment of costs shall be the condition precedent for granting aforesaid indulgence by the trial Court.

Petition stands disposed of accordingly.

(RAJ MOHAN SINGH)
JUDGE

August 18, 2017

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Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No