

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

Civil Revision No.7085 of 2014 (O&M)

Date of decision: May 08, 2017

Gora Singh and others

...Petitioners

Versus

Beerinder Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Sherry K. Singla, Advocate for the petitioners.

Mr. M.S. Uppal, Advocate for the respondent.

Rajan Gupta, J.(oral)

Present revision petition is directed against the order dated 24.09.2014, passed by the trial court, whereby application of the plaintiff/petitioners for amendment in the plaint has been rejected.

It has been urged before the court that provision of Order 6 Rule 17 CPC has to be liberally interpreted as the plaintiffs came to know about Will dated 01.08.1964, produced by the defendants in their evidence, amendment of the plaint was necessitated. Same ought to have been allowed by the court below.

Plea has been opposed by counsel representing the respondents. According to him, plaintiffs cannot be allowed to start the proceedings all afresh on the basis of evidence led by the defendants. Besides, instant application was moved when the suit was nearing its culmination.

I have heard learned counsel for the parties and given careful thought to the facts of the case.

It appears, plaintiff Hamir Kaur filed a suit for joint possession claiming that she was owner to the extent of 2/3rd share, which is natural succession in the suit property. She also posed challenge to Will dated 30.09.2009, stated to have been executed by Angrej Kaur in favour of defendant Beerinder Singh. She led evidence in support of her case. Defendants while leading evidence placed reliance on a Will dated 01.08.1964 in order to take the plea that the property was self-acquired property. A mutation was also sanctioned on that basis. When the case was fixed for rebuttal and arguments, instant application under Order 6 Rule 17 CPC was moved for amendment of the plaint. Trial court rejected the application observing that this would add a new dimension to the case and a fresh cause of action. Besides, application had been moved at the fag end of the trial. I find no infirmity with the order. Plaintiffs cannot be allowed to start a trial *de novo* at a stage when it is nearing culmination. Proviso to Order 6 Rule 17 CPC would also be attracted to the case. Under the circumstances, revision petition is without any merit and is hereby dismissed.

(RAJAN GUPTA)
JUDGE

May 08, 2017
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No