

CR No. 8133 of 2017
Date of Decision: 20.11.2017

Jasbir Kaur

---Petitioner

versus

Surjit Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. R.K. Singla, Advocate
for the petitioner

Rekha Mittal, J.

The present petition directs challenge against order dated 2.11.2017 (Annexure P-7) passed by the Civil Judge (Junior Division), Phillaur whereby application for amendment of the plaint has been disposed of.

Perusal of the application (Annexure P-5) would reveal that by filing application under Order 6 Rule 17 read with Section 151 of the Code of Civil Procedure (in short "CPC"), the petitioner sought to add number of defendants, detailed in para 2 of the application from 'a' to 'p'. The second amendment is to add the word 'ancestral' at various places, detailed in paras 'a' to 'e' of para 3 of the application. The third amendment in sub para 'c' of para 3 is with regard to factum of death of Surjit Singh during pendency of the suit and as a result thereof, claim of the plaintiff being increased to 1/3rd in place of 1/4th share.

So far as plea of the petitioner for adding parties on the array of defendants, the same cannot be subject matter of application for amendment of the plaint as for claiming such relief, the petitioner has to invoke the provision of Order 1 Rule 10 (2) of the CPC. As such, application of the petitioner for addition of parties cannot be allowed under Order 6 Rule 17 CPC.

With regard to adding the word 'ancestral' in various paras of the plaint as well as in the head note and prayer clause, the court has held that there is no reason to add the word 'ancestral' as otherwise relief is clear that the suit property is impliedly pleaded to be ancestral in nature. Perusal of the plaint would make it evident that this observation of the trial court is borne out from the averments set up in the plaint wherein the petitioner has claimed her share in the suit property on the plea that the same has been inherited by the plaintiff from her fore-fathers. Similarly, as the factum of death of Surjit Singh is undisputed and his legal representative have been brought on record, the court can take judicial notice of the fact as to what is the effect of death of Surjit Singh qua share of the plaintiff and defendants in the suit property. In this view of the matter, interference in the impugned order is not justified.

Dismissed.

(Rekha Mittal)
Judge

20.11.2017

PARAMJIT	Whether speaking/reasoned	: Yes/No
	Whether reportable	: Yes/No