

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.1157 of 2014
Date of Decision: January 24, 2018

Subash Chander Sharma

...Petitioner

Versus

Mukesh Kumar & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

Present: Mr.A.P.S.Sidhu, Advocate,
for the petitioner.

Mr.B.S.Jaswal, Advocate,
for respondent Nos.1, 2 & 4.

AMIT RAWAL, J. (Oral)

Petitioner-defendant No.1 is in revision petition against the impugned order, whereby the application moved by respondent No.1-plaintiff for amendment of the plaint by incorporating two subsequent events, i.e., (i) registration of FIR No.130 dated 28.6.2013 under Section 420 IPC at Police Station Jandiala Guru against defendant No.1 and (ii) challenge to the Will dated 6.1.1995, has been allowed.

Mr.APS Sidhu, learned counsel representing the petitioner-defendant No.1 submits that the legal representatives of plaintiff No.1 Ram Lubhaya instituted the suit seeking declaration with regard to the agreement dated 5.3.2007 executed by defendant No.1 in favour of defendant No.2 in respect of the shop in dispute to be null & void and unlawful document on the ground that it did not create any title and interest in defendant No.2.

Defendant No.2 in pursuance to the notice appeared and filed

written statement and set up a Will of Des Raj Sharma. Thereafter replication was filed on 14.9.2010, but the Will was not challenged. An application under Order 6 Rule 17 read with Section 151 CPC for amendment of the plaint was filed on 2.9.2013, which has erroneously been allowed by the Court below by ignoring the fact that the declaration could not have been claimed as it was time barred.

With regard to the subsequent event, he submits that the lodging of the FIR would not have any direct bearing on the outcome of the suit and, thus, there is gross illegality and perversity in the impugned order.

Per contra, Mr.B.S.Jaswal, learned counsel for respondent Nos.1, 2 and 4 submits that the suit is at the stage of the plaintiff's evidence. The defendants would have a right to cross-examine the witnesses as the FIR was registered post filing of the suit in 2013. There is no limitation seeking the right and title and, thus, urges this Court for dismissal of the revision petition.

I have heard the learned counsel for the parties, appraised the paper book and of the view that there is no force and merit in the submissions of Mr.Sandhu, for, the amendment, as noticed above, is most innocuous and clarificatory in nature, particularly with regard to the fact that a subsequent event of registration of FIR has occurred, which can always be allowed to be amended/incorporated in the pleadings by causing amendment.

As regards the challenge to the Will dated 6.1.1995, i.e., being barred by limitation, the petitioner-defendant is at liberty to take up all the pleas, much less the provisions of Section 3 of the Limitation Act can always be pressed into service. In my view, the amendment allowed by the

trial Court is perfectly legal and justified and does not call for any interference.

Resultantly, the revision petition is dismissed.

January 24, 2018
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No