

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

C.R. No.1119 of 2018

Date of Decision.19.02.2018

Dharam Chand

.....Petitioner

Vs

Harbhajan Singh and others

.....Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Bhanu Pratap Singh, Advocate
for the petitioner.

-:-

AMIT RAWAL J.(ORAL)

The petitioner is aggrieved of the impugned order whereby the application for amendment of the plaint in the suit claiming declaration to be owner in possession of house constructed on plot No.99-A, measuring 330 sq. yard bearing M.C. No.B-XX-3507 situated in Kartar Singh Sarabha Nagar, Ludhiana and challenging various sale deeds dated 24.11.1995, 13.3.1992, 26.7.1988 and 19.5.1988 with consequential relief of permanent injunction and mandatory injunction by incorporating the paragraphs mentioned in the application, has been allowed.

Mr. Bhanu Partap Singh, learned counsel appearing on behalf of the petitioner submits that in the aforementioned suit filed by the respondent-plaintiff, issues were framed on 07.09.2017 and trial had commenced but the application for amendment of the plaint was moved in October, 2017. Though the same has been allowed in November, 2017 but the plaintiff has failed to give reasons of due diligence as to why the averments made in the pleadings sought to be incorporated were prevented. In the absence of the same, application for amendment of the plaint under

relies upon the judgment of the Hon'ble Supreme Court rendered in **Ajendraprasadji N. Pande and another Vs. Swami Keshavprakeshdasji N. and others 2006(12) SCC 1** and judgment of this Court in **Sharanjit Kaur Vs. Kulwant Singh and others 2015(1) ICC 193**.

I have heard learned counsel for the petitioner and appraised the paper book. Order 6 Rule 2 CPC reads as under:-

“2. Pleading to state material facts and not evidence.- (1) Every pleading shall contain, and contain only, a statement in a concise form of the material facts on which the party pleading relies for his claim or defence, as the case may be, but not the evidence by which they are to be proved.

(2) Every pleading shall, when necessary, be divided into paragraphs, numbered consecutively, each allegation being, so far as is convenient, contained in a separate paragraph.

(3) Dates, sums and numbers shall be expressed in a pleading in figures as well as in words.”

A perusal of the same reveals that the pleading shall contain a statement in concise form and not required to plead evidence. The impugned order, noticing the rival contentions, reveals that the amendment sought to be incorporated is explanatory and clarificatory in nature. It is pertaining to the very same sale deeds which are under challenge and no new pleas have been taken up. The amendments are explanatory in nature regarding execution of the sale deeds which would ultimately enable the Court to arrive at a finding, much less, the defendant would also be able to rebut the same by filing amended written statement.

There is no dispute to the aforementioned ratio decidendi referred to by the counsel for the petitioner but the fact of the matter is that the Rules are made to advance justice and the moot point that has to be seen is whether in the absence of such pleadings, it would manifest into injustice

or not. All the cases are to be examined independently as per the pleadings. It is also a matter of record that no evidence has so far been led and the petitioner would be leading evidence in support of the averments made in the amended plaint.

In view of the aforementioned, I do not find any illegality and perversity in the order under challenge and the same cannot be said to be passed without jurisdiction or beyond jurisdiction. No ground for interference is made out. The revision petition stands dismissed.

(AMIT RAWAL)
JUDGE

February 19, 2018
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No