

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

CR No.1695 of 2016 (O&M)
Date of decision : 05.04.2018

Amritpal Kaur

...Petitioner

Versus

Jagtar Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sanjiv Gupta, Advocate for the petitioner.

Mr. P.K.S. Phoolka, Advocate for the respondents.

ANIL KSHETARPAL, J. (ORAL)

Defendant No.1-petitioner is in the revision petition against the order passed by the learned trial Court dismissing the application for permission to amend the written statement so as to include in the pleadings that the defendants had also purchased the property measuring 1000 square yards vide sale deed dated 14.07.1981. It is the case of the defendant No.1-petitioner that she had purchased the total area of 1400 square yards.

Learned counsel for the petitioner has drawn the attention of the Court to para 2 of the written statement on merits where this fact has been pleaded. Only error which has been pointed out is that while giving details of the sale deeds, reference has been made only to one sale deed and not regarding second.

On the other hand, learned counsel for the respondents-plaintiffs has pointed out that the case is at the stage of defendant's documentary evidence. The plaintiffs have already concluded their evidence and the defendants have also closed their oral evidence.

The suit filed before the trial Court is for permanent injunction. The defendants have defended the case by filing the detailed written statement wherein it has been pleaded that defendant No.1 is owner in possession of area measuring 1400 square yards. As per Order 6 Rule 2 CPC, the pleadings have to be concise. The evidence is not required to be pleaded.

On the other hand, learned counsel for the respondents has submitted that the amendment is only an effort to reopen the entire case and delay the decision of the case.

Taking into consideration these facts, this Court is of the opinion that once defendant No.1 has already pleaded that she is in possession of 1400 square yards of land and oral evidence to this effect has already been led and the defendants undertake to produce the aforesaid sale deeds in their evidence, then there is no need of amendment of the written statement.

It is needless to observe that the evidence led by the defendants with respect to the sale deed of 1000 square yards shall not be treated as out of the pleadings.

The plaintiffs-respondents would also be granted opportunity to lead evidence to rebut the aforesaid sale deeds, if required.

In view thereof, the revision petition is disposed of with the aforesaid observations.

05.04.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No