

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Civil Revision No.1709 of 2018

Date of Decision: 15.03.2018

Brigadier Sarabjit Singh Ahluwalia

....Petitioner (s)

Versus

Barinder Kaur Ahluwalia & another

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Rahul Sharma, Advocate
for the petitioner(s).

HARI PAL VERMA, J. (Oral)

Petitioner-defendant has filed the present revision petition under Article 227 of the Constitution of India, impugning the order dated 20.02.2018 (Annexure P-7) passed by Civil Judge (Jr. Divn.), Chandigarh, whereby, on an application filed by the plaintiff-respondents, under Order 6 Rule 17 CPC, the plaintiffs have been allowed to amend the plaint with regard to the factum of transfer of property in favour of plaintiff no.2 on the basis of Will dated 01.10.2014 by the Estate Office, Chandigarh vide order dated 11.08.2017.

Learned counsel for the petitioner has argued that the amendment has been moved at a stage when the defendant's evidence was on the verge of completion. Now, in case the amendment is allowed, the petitioner-defendant will be required to file a fresh written statement, which would not only delay the proceedings, rather would complicate the matter.

I have heard learned counsel for the petitioner and perused the impugned order.

The law as regards amendment of plaint is quite liberal, provided the applicant makes out a case for such amendment. In the case in hand, the parties to the suit are in close relations and only amendment sought by the plaintiffs is regarding the factum of transfer of property in favour of plaintiff no.2 by the Estate Office, Chandigarh vide order dated 11.08.2017, which is otherwise based on Will dated 01.10.2014. Therefore, this Court finds that taking into consideration the nature of amendment so sought, no interference is warranted in the impugned order. However, considering the fact that the petitioner-defendant has to undergo the exercise of filing fresh written statement, this Court finds that the petitioner-defendant is required to be compensated suitably.

Accordingly, the impugned order is modified to the extent that the plaintiff-respondents shall pay costs of Rs.10,000/- to the petitioner-defendant instead of Rs.5,000/-.

The revision petition is disposed of accordingly.

The present petition has been disposed of, at this stage, without issuing any notice to the respondents for the reason that in case notice is issued to the respondents, it will further delay the proceedings. Still, in case the respondents feel prejudice by this order, they are at liberty to file an application for recalling of this order.

March 15, 2018
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No