

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

CR No.2971 of 2018
Date of decision: 07.05.2018

Lakhmira (deceased) through LRs

... Petitioner

Versus

Puran Chand and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Robin Dutt, Advocate for the petitioner.

ARUN PALLI, J. (Oral)

The defendant is in revision against the order dated 09.04.2018, rendered by Civil Judge (Jr. Divn.) Bilaspur, vide which the application moved by the respondent-plaintiffs under Order 6 Rule 17 of the Code of Civil Procedure, seeking to amend the plaint, has since been accepted.

In a suit filed by the plaintiffs, they are seeking a declaration that they are owners in possession of the suit property on account of foreclosure of the right of redemption. And vide proposed amendment, all what they sought to plead, in the alternative, was that much prior to the date when the suit property was mortgaged with the plaintiffs, they as it is were in occupation and possession thereof as tenant, as reflected in jamabandies for the years 1893-1894, 1901-1902 and 1909-1910. Therefore, they could only be dispossessed pursuant to an order of ejectment under the Punjab Security of Land Tenures Act, 1953.

That being so, and on an analysis of the matter in issue, the trial court reached a conclusion that the amendment prayed for was extremely

crucial vis-à-vis the rights of the plaintiffs, and would enable the Court to arrive at a just and fair decision in the matter. Further, the jamabandies, referred to above, have already been tendered in evidence by the plaintiff, as reflected in the order dated 05.03.2015 (Annexure P3). Ex facie, the amendment prayed for and granted by the trial court is neither mutually destructive nor barred by time. The plea of the defendants that plaintiff never set up any such plea before the Collector, would also not advance their case as those proceedings were summary in nature.

That being so, no ground is made out to interfere in exercise of revisional jurisdiction under Article 227 of the Constitution of India. The petition being devoid of merit is accordingly dismissed.

07.05.2018
Rajan

(Arun Palli)
Judge

Whether speaking / reasoned:
Whether Reportable:

YES
NO