

In the High Court of Punjab and Haryana at Chandigarh

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Civil Revision No.3497 of 2018 (O&M)

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Date of decision:24.5.2018

Mohan Lal and another

.....Petitioners

v.

Des Raj and others

.....Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Chetan Bansal, Advocate for the petitioners.

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Inderjit Singh, J.

Mohan Lal and Sham Sunder-petitioners/plaintiffs have filed this civil revision petition against Des Raj and others-respondents/defendants under Article 227 of the Constitution of India for setting aside the impugned order dated 13.4.2018 (Annexure-P.1) passed by the learned Civil Judge (Junior Division), Amritsar, whereby application filed by the petitioners/plaintiffs under Order 6 Rule 17 read with Section 151 CPC for amendment of plaint has been dismissed.

I have heard learned counsel for the petitioners and have gone through the record.

From the record, I find that during the pendency of the suit, an application under Order 6 Rule 17 CPC read with Section 151 CPC for amendment of the plaint had been filed by the petitioners-plaintiffs. It had

been stated in the application that the plaintiffs have impleaded all the co-sharers of the Khata as defendants in the present suit, but inadvertently the relief of partition of the joint land being co-owner, to which the suit property is a part, has not been incorporated in the head note and prayer clause of the plaint.

The defendants/respondents stated that the application is time barred and entire Khata is not a joint Khata and prayed for dismissal of the application.

The learned Civil Judge (Junior Division), Amritsar, vide impugned order dated 13.4.2018 dismissed the application.

I have gone through the impugned order and find that the plaintiffs had filed the suit against the defendants for declaration to the effect that the plaintiffs are owners of private plot No.6 and for possession of above land measuring 1384.4 sq. yards and for permanent injunction restraining defendants No.1 to 9, their agents, attorneys or representatives from making any construction over the suit plot, alienating, in any manner, the suit plot and parting possession of the same to other persons as they have no right, title or interest in it.

A perusal of the plaint, which has been placed on record, nowhere shows that as to how the plaintiffs had become owners and how much share they were having in the plot and who are the other co-owners of the property having how much share in the property in dispute. Rather, a perusal of the plaint shows that the plaintiffs' plea is that defendants No.1 to 9 have no right, title or interest in the suit land. If the proposed amendment is allowed, it will change the nature of the suit. In the suit for partition, the

plaintiffs are to tell their share in the property and as to how they became owners of that share and also to tell the shares of other co-owners but there are no such pleadings in the original plaint. Therefore, the application for amendment under Order 6 Rule 17 CPC cannot be allowed. Otherwise also, the learned Civil Judge (Junior Division), Amritsar, has stated that the case had been pending since the year 2011 and the plaintiffs have taken the plea that the property was in the form of different plots, which was purchased by different persons.

The impugned order dated 13.4.2018 passed by the learned Civil Judge (Junior Division), Amritsar, is correct as per law and no illegality has been committed by the learned lower Court while passing this order, which does not require any interference from this Court and the same is upheld.

Therefore, finding no merit in this civil revision petition, the same is dismissed.

May 24, 2018.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No