

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 3673 of 2018 (O/M)
Date of decision : 29.5.2018

Chanan Singh

..... Petitioner

Versus

Jagtar Singh

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Ms. Manmohan Kaur, Advocate,
for petitioner.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH J. (ORAL)

Impugned in present revision is order dated 16.4.2018 (Annexure-P-2), passed by learned Additional Civil Judge (Senior Division), Moga, vide which an application filed by plaintiff for amendment of written statement to counter claim of defendant was dismissed.

At the time of preliminary hearing, Mr. B.S. Saini, Advocate, appeared of his own on behalf of respondent and opposed revision. Respondent is allowed to join proceedings and make submissions.

Arguments of both parties have been heard. File is also perused.

It comes out that plaintiff has filed a suit for permanent injunction restraining defendant from interfering in peaceful possession of plot measuring 6 marked ABCD and fully detailed in head note of plaint. In original plaint, it was stated that disputed plot is within lal lakir of village

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abadi and does not bear khasra number. To said plaint, counter claim was filed by defendant, to which plaintiff filed written statement. Now, at stage of rebuttal, plaintiff wants to make two amendments. He wants to plead that this Court has got no jurisdiction to try and decide the present counter claim and further wants to mention that disputed plot bears khasra number 164 khewat number 1178, khatuani number 1732, as per copy of jamabandi for year 1992-93, situated in area of village Indergarh, District Moga, and same is recorded as ownership of abadi. Said amendment was disallowed by learned Additional Civil Judge (Senior Division), Moga, vide order dated 16.4.2018 (Annexure-P-2).

Admittedly, law relating to amendment was amended and ordinarily no amendment is to be allowed after framing of issues and commencing of trial unless it is shown that with due diligence that party could not make averments earlier.

In present case, learned counsel for respondent has relied upon authority of Hon'ble Supreme Court in *Ajendraprasadji N. Pande and another Versus Swami Keshavprakeshdasji N. and others*, 2007 (1) RCR (Civil) 481 as well as authority of this Court in *Ranbir Singh Versus Bhupinder Kaur and another*, 2017 (3) Law Herald 2215.

On the other hand, learned counsel for petitioner has also relied upon a Three Judge Bench authority of Hon'ble Supreme Court in *Raj Kumar Bhatia Versus Subhash Chander Bhatia*, 2018 (1) RCR (Civil) 275, wherein it was held that when proposed amendment is to elaborate rebuttal evidence, same can be allowed.

I am of the view that so far as objection regarding jurisdiction of Court is concerned, same being legal in nature and can be revised even

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without any amendment. Hence, amendment to that effect was rightly disallowed. So far as giving khasra number etc. is concerned, earlier it was stated that property does not bear khasra number. Now, it is sought to be stated that plot bears khasra number etc. Therefore, amendment is explanatory in nature. Plaintiff has already filed written statement stating that he does not want to lead evidence. Since amendment is explanatory in nature and will not change the nature of suit, hence, amendment, as to mention khasra number of plot in plaint, is allowed with a rider that plaintiff shall not be allowed to lead evidence after said amendment. Needless to say that after amendment, opposite party shall be allowed to file reply to written statement. Consequently, revision is partly allowed.

(KULDIP SINGH)
JUDGE

29.5.2018
sjks

Whether speaking / reasoned : Yes / No

Whether Reportable : Yes / No