

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

**CR No.5167 of 2015
Date of Decision:05.02.2018**

Hans Raj

...Petitioner

Versus

Smt.Dhapa (since deceased) through LRs and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.C.B.Goel, Advocate for the petitioner.
Mr.Jai Singh Yadav, Advocate for respondent No.4.

ANIL KSHETARPAL, J. (ORAL)

Plaintiff-petitioner is in the revision petition against the order, dismissing the application for amendment of the plaint at the stage when the case was fixed for final arguments.

The plaintiff filed a suit on 8.7.2013, seeking declaration and challenging the sale-deeds executed by defendants No.1 to 3 in favour of defendants No.4 to 6 and the mutation sanctioned by the authorities on the basis of the sale-deeds. The plaintiff also prayed for injunction.

The plaintiff in para 3 of the plaint also pleaded that there was an oral family settlement and pursuant thereto, defendants No.1 to 3 had also relinquished their share.

Now the plaintiff wants to add this fact in the prayer clause by submitting that the plaintiff should be granted declaration, as there was an oral family settlement and the property had been relinquished by defendants No.1 to 3 in their favour and the possession was delivered.

It is not in dispute that these facts are also part of the pleadings. The plaintiff cannot say that these facts were not in his knowledge. The suit has remained pending for the last more than four years and respective parties have led their evidence. When the suit was at the final stage after conclusion of the evidence, an application seeking leave to amend the plaint was moved. The learned trial court has dismissed the application on two counts. First the facts were in the knowledge of the plaintiff and secondly the case is at the final stage.

As per proviso to Order 6 Rule 17 of the Code of Civil Procedure, the amendments after commencement of the trial are not permitted unless the parties justify that such facts were not in their knowledge. In the present case, as noticed earlier, the facts were in the knowledge of the plaintiff and the plaintiff had pleaded these facts in the original plaint itself.

In view thereof, there is no good ground to interfere in the impugned order passed by the learned trial court. The present revision petition is dismissed.

05.02.2018
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No