

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

1. **Civil Revision No.6414 of 2018 (O&M)**

Krishan Lal Sikka

...Petitioner

Versus

Kharaiti Lal Sikka and others

...Respondents1.

2. **Civil Revision No.6320 of 2018 (O&M)**

Parmod Kumar Sikka

...Petitioner

Versus

Kharaiti Lal Sikka and others

...Respondents

3. **Civil Revision No.6333 of 2018 (O&M)**

Kapil Sikka

...Petitioner

Versus

Kharaiti Lal Sikka and others

...Respondents

Date of Decision: October 17, 2018

CORAM:- HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mr.Deepak Girotra, Advocate for
the petitioners.

HARINDER SINGH SIDHU, J.

This order shall dispose of the above mentioned three revision petitions as the challenge in all the three petitions is to the orders of the trial Courts allowing the application under Order 6 Rule 17 filed by the respondent-plaintiffs for amendment of the plaint on identical grounds.

However the facts are being taken from CR. 6414 of 2018.

This revision petition has been filed impugning the order dated 06.08.2018 of the Ld. Civil Judge (JD) Rohtak whereby the application under Order 6 Rule 17 CPC filed by respondents No.1 and 2 has been allowed.

Respondents No.1 and 2 (plaintiffs) filed civil suit seeking declaration, mandatory and permanent injunction against the petitioner (defendant No.1) and other proforma respondents by challenging the release deed No.747/1 dated 4.10.2001 executed by Sh.Sant Lal, late father of the plaintiffs and defendant No.1 on various grounds, including fraud and misrepresentation and that the suit property was joint family property of which their father was not the absolute owner and that the plaintiffs had right by birth therein.

The case of the defendant No.1 was that he was owner in possession of the suit land in terms of the release deed. His father had also executed a registered will dated 12.1.2007 and bequeathed the said property to him. It was denied that the property was joint family property. Rather, it was asserted that Sant Lal was the absolute owner of the property.

Issues were framed in the suit on 13.10.2016. Thereafter, the case was adjourned to 1.11.2016 for the evidence of the plaintiffs.

On 15.12.2017, after having availed 18 opportunities, the plaintiffs filed the application under Order 6 Rule 17 CPC for amendment of the plaint asserting that during the pendency of the suit, defendant No.1 had forcibly dispossessed them from the suit property. It was pleaded that they wanted to

possession' in paragraph 1 and to add paragraph 4-a with the averment that “the defendant No.1 has dispossessed the plaintiffs forcibly from the suit property during pendency of the suit with the help of anti-social elements. Defendant No.1 has also threatened the plaintiffs to withdraw the suit, failing which face the consequences.”

This application has been allowed by the impugned order.

Learned counsel for the petitioner states that the Trial Court has erred in allowing the said application. The application was filed at a belated stage after the commencement of the trial. Before filing this application the plaintiffs had already availed 18 effective opportunities for leading their evidence. Further it was contended that the application was mala fide and had been filed only to delay the proceedings and had been filed only when the plaintiffs had not been able to prove their possession over the suit property. The result of allowing the application is that there would virtually be a de-novo trial. It is further argued that the application was vague and it had not been specified as to when the plaintiffs had been dispossessed.

The Ld. Trial Court has already considered those arguments and rejected the same. It was held that the amendment was being sought in respect of an event which was alleged to have taken place after the institution of the suit and as such had to be allowed as the objective of allowing amendment was to minimise litigation. Regarding the objection of the defendant that it had not been shown as to when the plaintiff was dispossessed, the Ld. Trial Court observed that it was a matter of evidence whether the plaintiff was dispossessed during the pendency of the case and

whether or not he was in possession of the suit property at the time of

institution of the suit.

There appears to be no infirmity in the impugned orders.

However considering the grievance of the petitioner-defendants that as a result of the amendment the trial would be delayed, it is requested that the trial court expedite the trial including by putting the plaintiffs to terms to conclude their evidence within a specified time.

Disposed of .

October 17, 2018

gian/sd

(HARINDER SINGH SIDHU)
JUDGE

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No