

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

**C.R. No.7265 of 2015 (O&M)
Date of Decision.22.11.2018**

Shakuntla Devi

.....Petitioner

Vs

Shamsher Singh and others

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. R.S. Mamli, Advocate
for the petitioner.

Mr. Manoj Kumar Taya, Advocate
for the respondents.

-.-

AMIT RAWAL J. (ORAL)

The revision petition is directed against the impugned order dated 24.09.2015 whereby the application for amendment to the plaint at the stage of evidence of plaintiff has been dismissed.

Mr. Mamli, learned counsel appearing on behalf of the petitioner submitted that the amendment is explanatory and clarificatory in nature and would not take away any valuable right of the defendants. The other party can always get liberty to oppose the same and lead evidence in support of their respective pleadings, which would be subject of adjudication at the final stage.

Mr. Manoj Kumar Taya, learned counsel appearing for the respondents opposed the prayer and supported the impugned order.

I am in agreement with Mr. Mamli as the amendment extracted, herein below, does not tantamount to altering the cause of action or take away right as the same is clarificatory and explanatory

in nature:

- “(a) That in the title of the plaint, the names of the respondent/defendants No.4 to 7 are liable to be deleted and in the heading under the title, the reference of the respondents/defendants no.4 to 7 is liable to be deleted, by way of amending the title and heading of the plaint, while inserting the defendants no.8 to 10 as defendants no.4 to 6.*
- (b) That in the heading under the title, the reference of the plaintiff and proforma defendant no.8 to 10, to be owners in joint possession to the extent of 1/4th share is liable to be deleted and in its place the plaintiff and proforma defendant no.8 to 10, to be owner in joint possession to the extent of 1/2 share is liable to be inserted. Similarly, the reference of proforma defendant no.4 to 7 to be owner in joint possession to the extent of 1/2 share in equal share is liable to be deleted. Similarly, the reference of the proforma defendant No.3, to be deleted and in its place proforma defendant no.3, to be owner in joint possession to the extent of 1/2 share is liable to be inserted. Similarly, where-so-ever the aforesaid facts, so appear in the plaint, including in the prayer clause as inadvertently and typographically oversight mentioned are liable to be deleted and in its place, the aforesaid proposed inserted facts are*

liable to be inserted.

(c) That in the pedigree table, the names of Bishna, Nathi, Prithi, Mohinder (defendant No.4) Vijay Pal (defendant No.5), Prem (defendant No.6) and Rajesh (defendant No.7) are liable to be deleted, whereas names of Smt. Hanso being the wife of Bir Singh and mother of Des Raj (since deceased) and defendant No.3 Chanda Singh is liable to be inserted.

(d) That after the para no.3 of the plaint, the following new para no.3(A) and before para no.7 (a), the following new para 7(a-i), are liable to be inserted.

“That Smt. Hanso had earlier married with Bir Singh and son of Chet Ram, and out of her said wedlock, Des Raj (since deceased), husband of the plaintiff and father of the defendants no.4 to 6 were born and after the death of Bir Singh, Smt. Hanso had remarried with Nanak, brother of her husband Bir Singh by solemnizing Kareva marriage with him, and accordingly the plaintiff, the defendants No.4 to 6 and the defendant No.3 are the legal heirs and legal representatives in interest of Smt. Hanso.”

(e) That in the plaint at some place, the date of the impugned judgment and decree inadvertently and

due to typographical oversight has been mentioned as 27.10.1988 instead of 21.10.1998 and as such the same is liable to be corrected.”

The strict compliance of expression “despite due diligence” cannot be pressed into service as the technicality of law should not be an impediment to advance justice and cannot take away right of the parties to seek clarification and have adjudication from the competent court of law.

In view of the aforementioned observations, the impugned order is set aside, subject to payment of costs of ₹5000/-, which shall be condition precedent. If the costs as directed is not deposited, the impugned order shall stand restored.

The revision petition stands allowed.

(AMIT RAWAL)
JUDGE

November 22, 2018

Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No