

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

Sr. No.118

C.R. No.6845 of 2018 (O&M)
Date of decision: 09.10.2018

Sukhjit Kaur

....Petitioner

versus

Malkiat Singh

....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Narinder Singh Dadwal, Advocate
for the petitioner.

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DEEPAK SIBAL, J. (Oral)

The present petition is directed against the order dated 30.08.2018 passed by the Civil Judge (Junior Division), Jagraon (for short – the Trial Court) dismissing the petitioner's application filed by her under Order 6 Rule 17 CPC to amend her written statement.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that the respondent filed a suit seeking therein a declaration to the effect that he be declared owner in possession of 32 kanals of land detailed and described in the headnote of the plaint. Mutation dated 26.11.1982 in favour of the petitioner/defendant was also challenged. On being put to notice, the petitioner, who was the defendant in the suit, appeared before the Trial court and filed her written statement in which it was inter-alia contended that the respondent/plaintiff's suit was not maintainable. On the basis of the dispute raised by the parties,

the Trial Court framed issues including an issue with regard to the maintainability of the respondent/plaintiff's suit. Thereafter, both the parties led their entire evidence and when the matter was listed for final arguments, the petitioner filed an application seeking therein to amend her written statement to the effect that the respondent/plaintiff's suit was not maintainable on the ground of non-joinder of necessary parties. Such application has been dismissed by the Trial Court occasioning the filing of the present petition.

Learned counsel for the petitioner has been heard.

The petitioner, who is the defendant in the respondent's suit, seeks to amend her written statement to add therein the objection with regard to the maintainability of the respondent's suit on the ground of non-joinder of necessary parties. The basis for such amendment is that Karnail Singh, whose Will forms the basis of the respondent's suit, has two sisters, who have not been impleaded by the respondent.

The petitioner is a 70 year old lady, who was married to Ranjit Singh son of Ajaib Singh, who was the brother of Karnail Singh. Having got married in the family of Ajaib Singh, who was the younger brother of Karnail Singh, it is not believable that the petitioner was not aware of the fact that Karnail Singh has two sisters and therefore, the objection now sought to be raised through the amendment application could and should have been raised by her at the time she filed her written statement and not when both the parties had already led their entire evidence and the matter was posted by the Trial Court for final arguments especially when the issue with regard to the maintainability of the suit had already been raised by the petitioner in her written statement and an issue in that regard was

also framed by the Trial Court on which both the parties were admittedly given adequate opportunities to lead their evidence.

In view of the above, no merit is found in the present petition.

Dismissed.

(DEEPAK SIBAL)
JUDGE

October 09, 2018
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No