

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

**Civil Revision No.7779 of 2015 (O&M)
Date of Decision: 08.01.2018**

Pritam Kaur and others

.....Petitioners

Vs

**Harchand Singh (deceased) through LRs Mukhtiar Kaur and
others**

....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. J.C. Kapoor, Advocate
for the petitioners.

Mr. A.S. Parmar, Advocate for
Mr. S.K. Bokolia, Advocate
for respondents No.1(i), (iii), (iv) and (v).

Mr. Parveen K. Kataria, Advocate
for respondent No.1(ii).

RAJ MOHAN SINGH, J.

[1]. In the present revision petition, petitioners have assailed the order dated 19.10.2015 passed by the Civil Judge (Jr. Divn.) Moga vide which application under Order 6 Rule 17 CPC for amendment of the plaint was dismissed.

[2]. The application filed by the petitioners under Order 6 Rule 17 read with Section 151 CPC was to the following effect:-

“Respectfully Showeth:-

1. *That the above titled suit is pending in this Hon'ble Court and fixed for dt. 13.10.2015.*
2. *That the properties mentioned in the head note of the amended suit came to the knowledge of plaintiffs now.*
3. *That the plaintiffs have been compelled to file the amended suit for kind perusal at further necessary decision in the interest of justice.*

It is, therefore, respectfully prayed that the amended suit may kindly be accepted and order to be passed for placing on record the amended suit for further decision in the interest of justice, equity and fair-play.”

[3]. Learned counsel for the petitioners by relying upon **B.K.N. Pillai vs. P. Pillai, 2000(1) R.C.R. (Civil) 511; M/s Estralla Rubber vs. Dass Estate (Pvt.) Ltd., 2001(4) R.C.R. (Civil) 362; Bhupinder Singh vs. Smt. Balwant Kaur, 2003(4) R.C.R. (Civil) 397; M.P. Rajasekharan Nair vs. Raju and another, 2003(4) R.C.R. (Civil) 464 (Kerala); Inder Pal Singh vs. Bankey Bihari, 2003(4) R.C.R. (Civil) 210 and Mani Raj vs. Firm Radha Krishan Siri Niwas, 2003(1) R.C.R. (Civil) 125** contended that the power to allow amendment is wide enough and can be exercised at any stage of litigation in order to curtail multiplicity of litigation and in the interest of justice.

[4]. On the other hand, learned counsel for the respondents has brought to the notice of the Court that the case is already at

the stage of final arguments before the trial Court. The properties have already been pleaded by the plaintiffs in the plaint and the filing of the application for amendment at this stage is an intended effort to delay the disposal of the suit.

[5]. I have heard the submissions made by learned counsel for the parties.

[6]. Sub Rule (2) was added to Rule 17 of Order 6 CPC as per amendment in Punjab, Haryana and Chandigarh wherein it was prescribed that every application for amendment shall be in writing and shall state the specific amendments which are sought to be made indicating the words and paragraphs to be added, omitted or substituted in the original pleadings.

[7]. Apparently, the application of the petitioners does not satisfy the mandatory requirement inasmuch as that the application is totally discrepant and lacks mandatory requirement of law. Even otherwise, the plaintiffs earlier filed an application for amendment of the title of the suit which was allowed vide order dated 19.07.2014. Thereafter application under Order 23 Rule 1 CPC for withdrawal of the suit with prayer to file fresh one on the same cause of action was filed. The said application was dismissed by the trial Court on 15.09.2015 and the said order has become final. Even an

application for additional evidence was filed and the same was dismissed by the trial Court on 09.07.2015. After availing the aforesaid remedies, the present application for amendment of the plaint came to be filed on 03.10.2015.

[8]. It is true that all necessary and *bona fide* amendments are to be allowed. At the same time *mala fide* amendments should not be encouraged. Each case is to be decided on the basis of its own facts. In the present case the application for amendment lacks material requirement. Secondly, the petitioners have already availed remedy of first amendment vide which amended title of the plaint was allowed to be incorporated. The second effort for withdrawal of the suit with permission to file fresh one under Order 23 Rule 1 CPC on the same cause of action was declined by the trial Court. The said order has attained finality. Thirdly the effort made by the petitioners to lead additional evidence was also declined on 09.07.2015. The case has already reached to the stage of final arguments.

[9]. Perusal of the record would show that the details of the properties have already been incorporated in the pleadings. The bifurcation of the properties in the manner as suggested by the petitioners would not advance the case of the petitioners in any manner. Even otherwise, the amendment is not proved to be

bona fide by any stretch of imagination.

[10]. There cannot be any dispute with regard to the proposition of law as enunciated in the aforesaid precedents, but in my considered opinion the amendment sought by the petitioners cannot be treated to be *bona fide* in order to attract the ratio of the aforecited judgments.

[11]. Having considered the controversy in entirety, I am of the view that the application filed by the petitioners lacks material and mandatory requirement of the Rule. The case is already at the fag end before the trial Court and at this stage no indulgence can be granted in favour of the petitioner. Consequently, this revision petition is dismissed on merits.

January 08, 2018

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Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No