

**CR No. 7395 of 2018 (O&M)
DECIDED ON: NOVEMBER 19, 2018**

MEHAR CHAND

.....PETITIONER

VERSUS

DALBIR SINGH & ANR

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. R.C. Sharma, Advocate
for the petitioner.

CM No. 23689-CII of 2018

Application is allowed, as prayed for.

CR No. 7395 of 2018

The present revision petition under Articles 227 of the Constitution of India, has been filed seeking quashing of order dated 25.09.2018 passed learned Additional Civil Judge (Sr. Division), Ludhiana (hereinafter referred to as 'trial Court') whereby, application for impleading Kiranjit Kaur as defendant No.3 has been dismissed.

2. The petitioner/plaintiff filed a suit for decree of redemption of mortgage of house measuring 250 sq. yards comprised in Khasra No. 171, Khata No. 106/111, Hadbast No.71, situated within the revenue limits of Village

Meharban, Tehsil and District Ludhiana.

3. Upon notice, a written statement was filed in the suit by respondents/defendants on 19.12.2013. The parties had already led the evidence and the case is fixed for rebuttal evidence. In the meantime, an application dated 14.08.2018 was filed for impleading Kiranjit Kaur, one of the legal heir of Inder Singh, as defendant No.3 being necessary party to the suit. The said application was dismissed by learned trial Court, hence, the present revision petition has been filed.

4. Learned counsel for the petitioner contended that on 13.08.2017, during cross-examination of DW-1, while minutely perusing the jamabandi, it came to the knowledge of petitioner/plaintiff that Kiranjit Kaur daughter of Inder Singh, is also a legal heir of the deceased-Inder Singh and due to oversight or inadvertence, she could not be impleaded as a party to the suit.

5. The contention raised by learned counsel for the petitioner lacks merit.

6. The trial Court has given a specific finding that in the written statement filed on 19.12.2013, respondents/defendants raised a specific preliminary objection that the suit of the petitioner/plaintiff was bad for non-joinder of necessary party, as Kiranjit Kaur was also a necessary party to the suit. The petitioner/plaintiff filed a re-joinder but never sought any amendment in the plaint. Almost after five years, an application was moved stating that due to oversight and inadvertence, Kiranjit Kaur was not impleaded as a party.

7. In the facts of the case, it cannot be accepted that it was a case of oversight especially, when rejoinder to the written statement itself was filed. Application has been filed at a belated stage when evidence of plaintiff and defendants are over.

8. No case is made out for interference. The present civil revision petition is dismissed.

NOVEMBER 19, 2018
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(AVNEESH JHINGAN)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>