

In the High Court of Punjab and Haryana at Chandigarh

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Civil Revision No.8356 of 2016

.....

Date of decision:16.5.2018

Virender Kumar and another

.....Petitioners

v.

Harjit Singh and others

.....Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Amit Singh, Advocate for the petitioners.

Mr. Ravinder Malik, Advocate for respondents No.1 to 3.

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Inderjit Singh, J.

Virender Kumar and Sarita Rani-petitioners/defendants No.1 and 2 have filed this civil revision petition against Harjit Singh and others-respondents/plaintiffs and defendants No.3 to 5 under Article 227 of the Constitution of India for setting aside the impugned order dated 24.10.2016 (Annexure-P.7) passed by the learned Civil Judge (Junior Division), Shahabad, District Kurukshetra, passed in Civil Suit No.CS/752/2016, whereby the application for amendment of plaint moved by respondents No.1 to 4 was allowed in an illegal manner.

Notice of motion has been issued in this case.

Mr. Ravinder Malik, learned Advocate has put in appearance on behalf of respondents No.1 to 3 and contested this civil revision petition.

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I have heard learned counsel for the parties and have gone through the record.

From the record, I find that Harjit Singh, Paramjit Kaur, Surender Kaur and Surjit Kaur-plaintiffs filed suit against Virender Kumar and others for declaration with consequential relief of permanent injunction.

During the pendency of suit, an application was filed by the plaintiffs for amendment of the plaint. It has been stated in the application that the applicants have claimed the ownership in the suit land along with respondents/defendants No.3 to 5 in equal share and also have challenged the validity of judgment and decree passed in Civil Suit No.1154/1986 titled “Surjeet Singh Vs. Balwant Singh” and also the mutations and sale deeds detailed in para No.2 of the application. It has been argued that at the time of execution of said sale deeds, one of the applicants/plaintiff No.1 was minor and he had no knowledge about those sale deeds and the earlier counsel for the applicants did not mention this ground in the plaint inadvertently and said fact is essential for the proper decision of the case. Therefore, the applicants want to amend the plaint to the effect that the impugned sale deeds, mutation and judgment and decree dated 18.11.1986 are illegal, void ab-initio on the ground that plaintiff No.1 was minor at the time of execution and registration of the said sale deeds.

Defendants No.1 and 2 took the plea that the applicants want to challenge the validity of judgment and decree passed by the Court, sale deeds and mutations. Applicant No.1-Harjit Singh had sold out 8 Kanals of land out of the suit land to respondent No.2 and the sale deed had been executed on 24.5.2008. It has been argued that the period of limitation to

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challenge the sale deeds was three years but within said period, said sale deeds were never challenged and by way of this application, the applicants want to challenge said sale deeds.

At the time of arguments, it is admitted case of the parties that the sale deeds have already been challenged in the Civil Suit. The plaintiff No.1 is claiming his date of birth of the year 1992 which means that he had become major in 2010 and the suit was filed within three years after plaintiff No.1 having become major i.e. in the year 2012. As sale deeds, mutation etc. had already been challenged within three years after attaining the age of majority, therefore, in no way, it can be held that now the suit has become time barred and the sale deeds cannot be challenged. The only amendment in the plaint which plaintiff No.1 wants to make is to take one extra ground to challenge the sale deed that he was minor at that time and defendants No.3 to 5 were not competent to execute the sale deeds.

Therefore, in view of the above facts, in no way, by allowing the amendment to the plaint by taking one more ground to challenge the sale deeds can be held as time barred. It is settled law that the Court is to do substantial justice between the parties and to determine their rights on merits as far as possible and not to go into the technicalities of law.

A perusal of the impugned order dated 24.10.2016 passed by learned Civil Judge (Junior Division), Shahabad shows that no illegality has been committed by the lower Court while accepting the application for amendment. Therefore, the impugned order is as per law and does not require any interference from this Court.

Hence, finding no merit in this civil revision petition, the same

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is dismissed.

May 16, 2018.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No