

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

214

CR-8507-2015 (O&M)

Date of Decision:22.02.2018

Krishan Kumar

.....Petitioner

Versus

Veena Devi and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

Present: Mr. Manoj Chahal, Advocate,
for the petitioner.

Mr. Sudhanshu Makkar, Advocate,
for respondent Nos.1 to 3.

HARI PAL VERMA, J.(Oral)

Petitioner has filed the present revision petition under Article 227 of the Constitution of India against the order dated 21.10.2015 passed by the learned Civil Judge (Jr. Divn.) Bhiwani, whereby his application under Order 6 Rule 17 CPC seeking amendment in the plaint was dismissed and evidence of the petitioner was closed by order.

Petitioner-plaintiff has filed a suit for declaration challenging the sale-deed dated 11.08.2011 registered in the office of Sub Registrar, Bhiwani, which was suffered by defendant No.4 in favour of defendant Nos.1 to 3 for the land detailed in the head note. During the pendency of the civil suit, the petitioner has moved the application under Order 6 Rule 17 CPC so as to amend the plaint and through this application, the petitioner-plaintiff wanted to add an alternative prayer seeking possession of the suit property. It has been submitted that during the course of trial, the trial court came to the conclusion that the petitioner is not in possession of the suit property, therefore, the amendment has been sought.

Prayer of the petitioner has been dealt with by the trial court. In the original plaint, the petitioner has mentioned that he is still in possession of the suit property. However, during the course of his cross-examination, he has deposed that he came to know regarding registration of the sale-deed when the possession of the suit property came into the hands of defendants. In this manner, he has admitted that he is not in possession of the suit property rather defendant Nos.1 to 3 are in its possession. The amendment so sought would lead to withdrawal of admission and accordingly, would change the nature of the suit.

I have heard the learned counsel for the parties and find that there is no illegality in the order dated 21.10.2015 passed by the learned Civil Judge (Jr. Divn.) Bhiwani, whereby application of the petitioner filed under Order 6 Rule 17 CPC was declined. There is no allegation in the application that the possession was illegally taken by the defendants during the pendency of the suit. The amendment sought for is at much belated stage when the entire evidence of the plaintiff has been adduced. The proviso attached to Order 6 Rule 17 CPC provides that amendment is not permissible after commencement of the trial and trial commences when the issues are settled and the case is set down for recording the evidence.

Thus, this Court does not find any illegality in the order dated 21.10.2015 passed by the learned Civil Judge (Jr. Divn.) Bhiwani, whereby application of the petitioner filed under Order 6 Rule 17 CPC was declined.

Dismissed.

February 22, 2018
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No