

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

C.R. No.8134 of 2017

Date of Decision.01.11.2018

Harbans Singh

.....Petitioner

Vs

Charan Singh and others

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Vivek K. Thakur, Advocate
for the petitioner.

Mr. Rohit Ahuja, Advocate
for respondent Nos.1 to 7.

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AMIT RAWAL J. (ORAL)

The present revision petition is directed against the impugned order whereby the application of the petitioner-plaintiff for incorporating certain paragraphs in the plaint by taking the plea of amendment without leading evidence has been dismissed.

Mr. Thakur, learned counsel appearing on behalf of the petitioner submitted that evidence in this regard has already been led and he does not want to lead evidence. No prejudice/harm would be caused to the defendants as they would be able to rebut the same by filing written statement as the case is slated for defendants' evidence.

Mr. Rohit Ahuja, learned counsel appearing on behalf of respondent No.1 to 7 submitted that the petitioner-plaintiff had already filed application for amendment but the said plea was not taken, therefore, provisions of Order 2 Rule 2 CPC would apply. Second application incorporating the amendment aforementioned is not maintainable.

I have heard learned counsel for the parties, appraised

the paper book and of the view that there is force and merit in the submissions of Mr. Thakur. The amendment sought the plaint as mentioned in para No.6 of the application is clarificatory in nature particularly when it is confined only in the pleadings without any fresh evidence. No prejudice or harm would be caused as proposed amendment does not alternate the nature of the suit, which is for declaration to the effect that the property at the hands of defendant No.1 was ancestral. Since the petitioner had filed the second application, I deem it appropriate to impose costs of ₹10,000/- to be paid to the counsel appearing for the respondents in the High Court.

The impugned order is set aside. The application seeking amendment to be incorporated is allowed. Amended written plaint shall be filed within two weeks from the date of receipt of certified copy of this order and the written statement shall be filed within two weeks thereafter. The suit shall be proceeded from the stage it was slated for.

The revision petition is allowed in the above terms.

(AMIT RAWAL)
JUDGE

November 01, 2018

Pankaj*

Whether Reasoned/Speaking Yes/No

Whether Reportable Yes/No