

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

**CR-8631-2016 (O&M)
Date of decision : 5.4.2018**

Varsha Rani and others	 Petitioners
Versus	
Balwinder Singh and others	 Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. R.S. Chauhan, Advocate for the petitioners.

Mr. Satbir Rathore, Advocate for respondents No. 1 to 6.

1. *Whether the Reporters of local newspaper may be allowed to see the judgment ?*
2. *To be referred to the Reporter or not.*
3. *Whether the judgment should be reported in the digest ?*

KULDIP SINGH J. (ORAL)

Impugned in the present revision petition is the order dated 17.11.2016 (Annexure P-5), passed by learned Additional Civil Judge (Senior Division), Mukerian, vide which an application filed under Order VI Rule 17 of the Code of Civil Procedure for amendment of the plaint was declined.

Heard.

Plaintiffs-petitioners have filed a suit for declaration in the year 2011 to the effect that plaintiffs are the owners to the extent of 7/9th share in the estate of deceased Gurbachan Singh son of Rikhi Ram in the property including the agricultural land and the house mentioned in the plaint. Further the mutation order dated 26.8.2008 passed by the revenue authorities and the Will dated 31.8.1999 were also challenged.

After the filing of the suit, issues were framed and both the parties led their evidence. The suit was at the stage of argument when on 4.4.2006, an application for amendment was moved by the plaintiffs so as to incorporate the plea for separate possession by way of partition qua the suit property by metes and bounds.

I am of the view that the remedy of partition by metes and bounds is an independent remedy. Plaintiffs-petitioners were seeking declaration regarding their shares and they have also challenged the Will dated 31.8.1999. It is only after establishing the ownership that they can claim the possession. The law relating to the amendment of the pleadings was amended vide Civil Procedure Code Amendment Act, 2002.. If the plaintiffs wanted partition, it was well within their knowledge and the same could have been pleaded earlier. Now the trial is almost complete and the case is fixed for arguments on merits, therefore, such amendment was rightly declined by the trial Court.

In view of above, present revision petition is dismissed accordingly.

Since, the present revision petition is dismissed, the misc. application pending, if any, also stands disposed of.

(KULDIP SINGH)
JUDGE

5.4.2018
preeti

Whether speaking / reasoned
Whether Reportable:

Yes
No