

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(1) Civil Revision No.970 of 2017 (O&M)
Date of Order: 3rd April, 2018

Mahinder Kaur ..Petitioner

Versus

Rameshwar Dass and others ..Respondents

(2) Civil Revision No.1060 of 2017(O&M)

Mahinder Kaur ..Petitioner

Versus

Rameshwar Dass and others ..Respondents

(3) Civil Revision No.1081 of 2017(O&M)

Mahinder Kaur ..Petitioner

Versus

Rameshwar Dass and others ..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Kanwardeep Singh, Advocate,
for the petitioner.

Mr. Chiranshu Bansal, Advocate, for
Mr. Vikram Singh, Advocate,
for respondents no.6 to 9.

ANIL KSHETARPAL, J.

Plaintiff-petitioner has filed Civil Revision Nos.970, 1060 and
1081 of 2017, challenging various orders passed by the learned trial court.

In Civil Revision No.970 of 2017, an application under Order 6

Rule 17 of the Code of Civil Procedure, seeking amendment of the plaint

has been rejected. It is not in dispute that the case is now fixed for rebuttal and final arguments.

Learned trial court has noticed that the amendment sought is wholly unnecessary for deciding the suit. Plaintiff through the present application for amendment wants to add that some action was taken by the authorities for violation of provisions of Haryana Development and Regulation of Urban Areas Act, 1975. Plaintiff had filed a suit for permanent injunction. Plaintiff now wants to add the relief of mandatory injunction and also wants to assert that defendants no.7 to 9 have illegally developed an unauthorized colony. The learned trial court has noticed that the amendment sought is not necessary for decision of the case. The court has also noticed that the only prayer in the plaint is to restrain the defendants from alienating the land from specific khasra numbers, which is alleged to be joint. The court has also noticed that the application is at a belated stage and the case is now fixed for rebuttal and arguments.

This court has heard learned counsel for the parties at length and with their able assistance gone through the impugned orders passed by the court.

As per the proviso to Order 6 Rule 17 of the Code of Civil Procedure, normally the application for amendment of the pleadings would not be entertained unless the party is able to satisfy that despite due diligence these facts were not in the knowledge of the party. In the present case, in the application, plaintiff has himself pleaded that the action was taken by the authority on his application. Such being the position, the facts were in the knowledge of the plaintiff. Still further learned counsel for the petitioner could not point out as to why the amendment is necessary for

adjudication of the suit.

In view of the aforesaid, Civil Revision No.970 of 2017 is dismissed.

Civil Revision No.1060 of 2017 has been filed by the plaintiff against the order passed by the learned trial court dismissing the application under Order 26 Rule 9 of the Code of Civil Procedure, refusing to appoint a Local Commissioner. The order passed, dismissing the application for appointment of the Local Commissioner is not revisable as held by the two Hon'ble Division Benches of this Court cited as **Harvinder Kaur and another v. Godha Ram and another, 1979 PLJ, 562** and **Pritam Singh and another v. Sunder Lal and others, 1990(2) PLR, 191.**

Hence, Civil Revision No.1060 of 2017 is found not maintainable.

In civil Revision No.1081 of 2017, application under Order 1 Rule 10 of the Code of Civil Procedure filed by the plaintiff has been dismissed.

Plaintiff wants to implead the Director General, Town and Country Planning, Haryana, as party-defendant. The learned trial court has noticed that the Director General, Town and Country Planning, Haryana, is not a necessary party as it is only a official under the Haryana Development and Regulation of Urban Areas Act, 1975. The present suit is a dispute between the private parties and it is the case of the plaintiff that the suit land has not been partitioned.

Such being the position, this court does not find any good ground to interfere with the impugned orders passed by the learned trial court.

Hence, all the three revision petitions are dismissed.

3rd April, 2018
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(ANIL KSHETARPAL)
JUDGE

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