

CR No.1142 of 2017
Date of Decision: 16.10.2019

Harbans Kaur and another

.....Petitioners

Versus

Narinder Kaur Bhangu and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAURPresent: Mr. Vivek Salathia, Advocate
for the petitioners.Mr. Rajesh Narang, Advocate
for respondent No.1.

None for respondent Nos.2 and 3.

NIRMALJIT KAUR, J. (ORAL)

The present revision petition has been filed for setting aside the order dated 06.01.2017, passed by the Additional Civil Judge (Senior Division), Tarn Taran, (for short, the trial Court) vide which, the application under Order 6 Rule 17 CPC read with Section 151 CPC filed by the petitioners for amendment of plaint, was dismissed.

At the first instance, it may be clarified that plaintiff/petitioner No.1 is the mother of the respondents. She is widow of Kalayan Singh Sidhu. Her husband was owner in possession of the house in question, where the petitioners were admittedly residing and continues to reside there after the death of her husband-Kalayan Singh Sidhu. Respondent No.1 is her daughter, who resides in Canada. It is alleged that respondent No.1 got signature on the affidavits under the pretext of claiming benefits from the department, where her husband worked. Feeling threatened that she may be thrown out from the house, the petitioner filed the suit for permanent

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injunction. Reply was filed by the respondent. In the reply, the respondent claimed that the petitioner/plaintiff had relinquished the right in her favour and that the house in question stands transferred in her name. When the petitioner came to know of the same, she filed the present application for amendment of the plaint seeking declaration as well. However, the same was dismissed by the trial Court. Learned counsel for respondent No.1 on the other hand argued that in case the revision is allowed and the respondents are allowed to amend the plaint, the same is likely to result in *de novo* trial.

Admittedly, no trial has commenced as yet and only written statement has been filed. Therefore, the very objection raised by learned counsel for the respondent is incorrect.

Taking into account the facts and circumstances of the present case, it would be highly unfair and unjust in case the application of the petitioner seeking amendment of the plaint is not allowed.

Accordingly, in view of the above and taking into account that the suit is at its very initial stage, the revision petition is allowed. The order dated 06.01.2017 passed by the trial Court is set aside and the application of the petitioner to amend the plaint is allowed as prayed.

(NIRMALJIT KAUR)
JUDGE

16.10.2019
sandeep

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No