

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No. 679 of 2019 (O&M)

Date of Decision: 30.01.2019

General Public through Jagtar Singh and others

.....Petitioner

Versus

Harbhajan Singh and others

.....Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. R.D. Bawa, Advocate
for the petitioners.

AVNEESH JHINGAN, J.(oral)

The present civil revision petition has been filed being aggrieved of the order dated 11.12.2018 passed by Civil Judge (Junior Division) Ajnala (hereinafter referred to as 'the civil Court') allowing the application for placing on record fresh amended plaint.

The facts in brief are that the respondents/plaintiffs filed a suit for declaration to the effect that Kundan Singh s/o Jassa Singh s/o Jawand Singh is presumed to be dead, as nothing was heard about him for more than last 25 years and that respondents/plaintiffs No. 1 to 5 are the nearest collaterals of Kundan Singh and only they are entitled to inherit the estate/property of Kundan Singh regarding his share in the land details of which are mentioned in the plaint.

During the pendency of the suit an application under Order VI Rule 17 of the Code of Civil Procedure, 1908 (for short 'CPC') was moved for amending the plaint. In the said amendment, the plaintiffs proposed to add a prayer for possession of the property. The said application was

was filed seeking withdrawal of suit regarding some Khasra number and to add some new khasra number. The same was allowed.

After the application was allowed, by mistake the earlier amended plaint for which the application was dismissed, was filed in which the relief for possession was sought. On realizing the mistake, an application was moved seeking permission for filing the fresh amended plaint in which the relief for possession was not sought. The application was allowed and the plaintiffs were permitted to file the fresh amended plaint. Hence, the present civil revision petition.

Learned counsel for the petitioners states that the suit was at its fag end. Learned Civil court erred in allowing the application at this stage and that too without imposing any costs. He states that it was a fraud being played on the court and on the petitioners.

Learned counsel for the petitioners argued that a fraud has been played but was not even able to substantiate the allegations of fraud. He was not in a position to dispute the fact that the plaintiffs have given undertaking before the Court that no fresh evidence is required as result of amendment. He has not disputed the fact that the amended plaint filed was same for which the application was dismissed earlier. He has not raised any argument to state that any fresh argument or evidence would be required as a result of amendment. Learned Civil Court had taken care while allowing the application that no prejudice is caused to the respondents. There is not even a single argument raised that as how any prejudice has been caused to the petitioners by passing the impugned order.

The court is empowered to allow the amendment at any stage provided it is necessary to decide the issue involved in suit. Merely because

the wrong amended plaint was filed, that itself will not amount to fraud.

In such circumstances, no interference is called for in the impugned order.

The civil revision petition is dismissed.

30.01.2019

reema/pankaj

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No