

**248 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CR-4120-2018 (O&M)
Date of Decision: 09.07.2019**

Santosh Kumari (Now Deceased)
through LRS Sunil Kumar

...Petitioners

Versus

State of Punjab and others

...Respondents

Coram: Hon'ble Mr. Justice Raj Mohan Singh

Present: Mr. Sunil Mallan in person.

Mr. Arun Kaundal, AAG, Punjab.

Mr. Parvesh Sachdeva, Advocate for
Mr. Rishu Mahajan, Advocate for respondent No.3.

RAJ MOHAN SINGH, J. (ORAL)

Perusal of memorandum of parties shows that State of Punjab was impleaded as a party-defendant in the suit.

Learned counsel for the petitioner at the very outset states that State of Punjab has wrongly been impleaded as party- defendant in this case and the same may be deleted from the array of respondent.

Order accordingly.

As per office report, respondents No.2 & 3 have been duly served, but, there is no representation on their behalf. The suit was filed by the deceased-Santosh Kumari. After her death, Sunil Kumar has already been impleaded as one of her legal representative. Two of the properties were left to be mentioned in the plaint. Plaintiff is in the process of leading evidence and inclusion of two of the properties i.e lease right of Booth No.27, Sector-47 C Chandigarh and Plot No. 44,

Kakrola (New Delhi) would not cause any material prejudice to the respondents and the same would prevent multiplicity of litigation.

It is settled principle of law that all bonafide amendments are to be allowed and the effect of the same would be decided by the trial court at appropriate stage.

In this revision petition, the petitioner has prayed for amendment of the plaint which was declined on the ground that plaintiff is in the process of leading her evidence and she was in the knowledge of the omission in not mentioning the property in the plaint. In the light of observations made by the Courts in **Ramchandra Sakharam Mahajan vs Damodar Trimbak Tanksale (dead) and others (2007) 6 SCC 737 and Rajesh Kumar Aggarwal Vs. K.K. Modi, AIR 2006 SC-1647**, indulgence can be granted in favour of the petitioner as the provision itself shows that the first part is discretionary and leaves it to the Court to order amendment in pleadings. The second part is imperative and enjoins the Court to allow all amendments which are necessary for just decision of the case. The addition of the aforesaid properties would definitely go in a long way to curtail further litigation between the parties.

For the reason recorded herein above, I deem it appropriate to allow this revision petition. Consequently, the impugned order dated 10.05.2018 is set aside. Normal consequence to follow.

09.07.2019
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(RAJ MOHAN SINGH)
JUDGE