

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

206

CR No.4314 of 2018

Date of decision: 25.07.2019

LAJINDER KAUR

...PETITIONER

VS.

RAJINDERJIT KAUR AND ORS.

...RESPONDENTS

CORAM:HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr.H.S. Dhindsa, Advocate
for the petitioner.

Mr. R.N. Moudgil, Advocate
for the respondents.

DEEPAK SIBAL, J.(ORAL)

The present petition is directed against the order dated 01.05.2018 passed by the Civil Judge (Jr.Division) Kharar (for short "the trial Court") through which an application filed by the petitioner under Order 6 Rule 17 CPC seeking therein amendment of her plaint has been dismissed.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition, are that the petitioner filed a suit seeking therein to be declared as owner in joint possession to the extent of 1/4th share of the land measuring 6 Kanals and 7 Marlas detailed and described in the head note of the plaint. Sale deed dated 28.03.2005 executed by Jagir Singh in favour of respondent No.1 was also challenged. Permanent injunction to restrain respondent No.1 from alienating the suit property was also sought.

On being put to notice, the respondents who were defendant in the suit, appeared before the Trial Court and filed their written statement contesting the petitioner's claim. The Trial Court framed issues on the dispute between the parties. Thereafter, at the stage when only one witness of the petitioner-plaintiff has been examined, an application was filed by the petitioner under Order 6 Rule 17 CPC for amendment of the head note and prayer clause of his plaint to the effect to include therein certain other properties owned by the petitioner's father in which she was claiming her 1/4th share by way of succession. Such application has been dismissed by the Trial Court through the order under challenge in the present proceedings.

Learned counsel for the parties have been heard.

Through her suit the petitioner/plaintiff primarily seeks her share in her father's properties on the basis of succession. That being so, to avoid multiplicity of litigation, the application filed by her seeking therein to include therein the properties of her father which had inadvertantly been left out at the time of filing of her suit should have been allowed by the Trial Court, especially when such application was filed at the initial stage of the trial when only one witness of the petitioner/plaintiff has been examined and that it is not disputed that the properties which the petitioner now seeks to include in her plaint were infact owned by her father-Jagir Singh.

In view of the above, subject to payment of ₹ 10,000/- as costs to be paid by the petitioner to each of the respondents, the impugned order is set aside and the amendments sought by the

petitioner are allowed.

The petitioner's suit is found to have been filed in the year 2014 and, therefore, the Trial Court is directed to conclude the same within 10 months from the date of receipt of a certified copy of this order, of course, after giving reasonable and effective opportunities to both sides to lead their respective evidence.

The petition is allowed in the above terms.

July 25, 2019
Poonam Sharma

(DEEPAK SIBAL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether Reportable	Yes/No