

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

C.R. No.5608 of 2016 (O&M)
Date of Decision.21.01.2019

Inder Singh

...Petitioner

Vs

Paro Bai and another

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Rahul Arora, Advocate
for the petitioner.

Mr. K.B. Raheja, Advocate
for the respondents.

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AMIT RAWAL J. (ORAL)

The present revision petition is directed against the impugned order dated 17.08.2016 whereby amendment of the written statement at the stage of defendants' evidence to incorporate the plea of purchase of land, which is subject matter of the suit land, by virtue of sale deed, has been declined.

Learned counsel for the petitioner submitted that respondent-plaintiff filed the suit claiming ownership to the extent of 1/3rd share, being legal heir of Narain Singh and as well as permanent injunction restraining defendants from alienating the suit land.

The petitioner-defendant opposed the suit by raising objection qua limitation and admitted that land measuring 29 kanals 15 marlas was owned by Narain Singh but stated to be in possession of answering defendant and out of the said land, some land was owned by the Provincial government, which is also owned by the answering defendant on the basis of Will executed by Narain Singh.

However, when the suit was slated for evidence, defendants wanted

to amend following preliminary objection No.5 but the same has erroneously been declined:-

“That land measuring 4 kanal 6 marlas comprised of Rect. No.78, Killa No.2/2 (4-6) was previously owned by Goma Singh son of Fatta Singh, r/o Mamdot Hithar, Tehsil and District Ferozepur and the same was purchased by defendant No.1 from Goma Singh through registered sale deed dated 2.1.2003. Thus the said land was never purchased or owned by deceased Narain Singh at any time and therefore, the plaintiff has wrongly included the said land in the plaint and the plaint is liable to be amended accordingly.”

The parameters of amendment of written statement and plaint are totally different.

Mr. Raheja, learned counsel appearing on behalf of the respondents submitted that suit was filed in the year 2013 and this fact was in the knowledge of the petitioner-defendant but despite that no such plea was taken. It is an attempt to delay adjudication of the suit, nothing else, thus, prayed for dismissal of the revision petition with costs.

I have heard learned counsel for the parties, appraised the paper book and of the view that the amendment sought is innocuous, as it would help the court for adjudication of the *lis*. The amendment sought does not amount to withdrawal of any admission or taking any contrary stand than the one already taken in the written statement, much less, the plaintiff would have a chance to rebut the

same in accordance with law.

In view of the aforementioned facts, the impugned order is set aside and the application for amendment is allowed, subject to payment of costs of ₹7000/-, which shall be condition precedent. In case of any default in payment of costs, the order under challenge shall stand restored.

The revision petition stands allowed in the above terms.

(AMIT RAWAL)
JUDGE

January 21, 2019

Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No