

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

CR No. 984 of 2019

Date of Decision:29.10.2019

GURPREET KAUR

...Petitioner

Versus

AMAR NATH AND ANOTHER

..Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr.Aayush Gupta, Advocate
for the petitioner.

Mr. Namit Gautam, Advocate
for respondent No. 1.

DEEPAK SIBAL, J. (ORAL)

The present petition is directed against the order dated 30.11.2018 passed by the Civil Judge (Junior Division), Ludhiana (for short-the Trial Court) allowing an application filed by respondent No.1/plaintiff under Order 6 Rule 17 CPC seeking therein amendment of his plaint.

After hearing learned counsel for the parties and perusing the record, the noticeable facts which have emerged are that on 26.09.2012, the petitioner filed a suit seeking therein to restrain respondent No.1 and his son- Mohinder Pal from interfering, in any manner, in raising of construction by the petitioner over her property/plot measuring 148.22 sq. yards detailed and described in the head-note of the plaint (for short- the

petitioner's property). The petitioner claimed to be owner in possession of the petitioner's property on the strength of two sale deeds dated 28.01.2010 and 18.07.2012 entered into between the petitioner and respondent No.2-Vidya Rani.

While the above suit was pending, on 26.11.2012, respondent No.1 filed a suit seeking therein to restrain respondent No.2-Vidya Rani from alienating by way of sale, mortgage, gift or in any other manner/mode, land more than her share with a further prayer to restrain the petitioner, who was defendant No.2 in the suit, from interfering in the peaceful and lawful possession of respondent No.1 over the land detailed and described in the head-note of the plaint (for short-the suit property). In respondent No.1's suit, before any of the parties could start leading their respective evidence, an application was filed by respondent No.1 under Order 6 Rule 17 CPC seeking therein to amend his plaint to include therein a challenge to the aforesaid two sales deeds dated 28.01.2010 and 18.07.2012 between respondent No.2-Vidya Rani and the petitioner. Such application was allowed by the Trial Court through the order under challenge in the present proceedings.

One Shakuntla Devi (late wife of respondent No.1/plaintiff) and respondent No.2-Vidya Rani were joint owners in possession of the land measuring 30 kanals and 14 marlas out of which, through two sale deeds dated 28.01.2010 and 18.07.2012, respondent No.2 sold 148.22 sq. yards to the petitioner which according to respondent No.1 was beyond respondent No.2's share in the aforesaid 30 kanals and 14 marlas. That being so, in the suit preferred by respondent No.1 to restrain respondent

No.2-Vidya Rani from alienating/disposing/transferring more land than her share in the afore-referred 30 kanals and 14 marlas of land, respondent No.1 has rightly been permitted by the Trial Court to amend his suit to include therein a challenge to the two sale deeds dated 28.01.2010 and 18.07.2012 executed by respondent No.2 in favour of the petitioner. The challenge to the sale deeds in question would not change the nature of the suit but would rather be in line with the claim made by respondent No.1. It would also prevent multiplicity of litigation and challenge to these sale deeds is considered essential for the just disposal of respondent No.1's suit.

In view of the above, the impugned order warrants no interference especially when respondent No.1's amendment application to include therein a challenge to the aforesaid two sale deeds has been allowed at an early stage of respondent No.1's suit when none of the parties have even begun to lead their evidence.

Dismissed.

October 29, 2019

Jyoti-IV

(DEEPAK SIBAL)
JUDGE

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