

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

CR-3814-2019 (O&M)

Date of decision: 12.07.2019

Sukhwinder Kaur and another

...Petitioners

Versus

Avtar Singh and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. J.S. Arora, Advocate for the petitioners.

H.S. MADAAN, J.

Mr. J.S. Arora, Advocate has filed vakalatnama on behalf of the petitioners with no objection from earlier counsel, which be taken on record.

This revision petition is directed against order dated 08.05.2019, passed by Addl. Civil Judge (Sr. Divn.) Amritsar, in an execution application, titled 'Avtar Singh Vs. Sukhwinder Kaur and others', vide which, an application filed by respondent Avtar Singh under Order 6 Rule 17 CPC for amendment of execution application has been allowed.

I have heard learned counsel for the revisionists and have gone through the impugned order and I find that there is no merit in the revision petition. A perusal of the impugned order goes to show that the plaintiff/DH had filed a suit for specific performance on the basis of

agreement to sell dated 10.11.2009 with regard to the property bearing khasra Nos. 464, 465 and 466, but in the judgment passed by the trial Court, khasra No.465 was not mentioned. Subsequently, the plaintiff/DH moved an application before the trial Court under Section 152 CPC for carrying out necessary correction in the judgment, which was accepted, vide order dated 15.12.2018 and khasra No.465 was incorporated. Accordingly, the plaintiff/DH filed an application for amendment in the present execution petition. The Executing Court finding merit in that contentions accepted the application, which left the judgment debtors aggrieved and they have filed the present revision petition.

The first contention raised by learned counsel for the revisionists was that Order 6 Rule 17 CPC deals with amendment of pleadings only and an execution application does not come within definition of pleadings. However, it has to be taken note of that, that the application in question was filed under Section 151 CPC also, which deals with inherent powers of the Court to make such orders as may be necessary for the ends of justice or to prevent abuse of process of the Court. The amendment in the execution application was certainly necessary, since correction in the judgment and decree of the trial Court had been got done under Section 152 CPC, so as to include khasra No.465, which according to the plaintiff/DH could not be incorporated inadvertently, though, it was subject matter of the suit.

As regards, the contention that the application for amendment should have been filed under Order 21 Rule 17 CPC, however, this contention does not carry much weightage, since mere mentioning of wrong provisions of law in an application does not mean that it is to be rejected outrightly. The spirit and substance of the application is to be viewed and hyper-technical approach is not to be adopted in such type of cases.

Another contention put forward by learned counsel for the revisionists was that an application for amendment had been filed earlier by the DH, which was rejected and second application is not maintainable. Again, his argument is without force. There is no bar to move more than one application for amendment, if the circumstances so warrant. In the instant case, moving of second application was warranted on account of typographical correction in the judgment and decree to incorporate khasra No.465, which was statedly left out inadvertently. Therefore, the Executing Court did not do anything wrong in accepting the application. The learned counsel for the petitioners has referred to judgments **Shamsher Singh and others Vs. Joginder Singh and another**, rendered in CR-1435 of 2011, decided on 19.10.2011 and **Bank of India, Visakhapatnam Vs. M/s Jagannadaraju & Co., Waltair and others**, 2002(1) An. WR 346. Those are not applicable due to different facts and circumstances and the context in which such observation had been made.

There is no illegality or infirmity in the order, much less apparent on the face of it, which might have called for interference by this Court, while exercising revisional jurisdiction. Thus, finding no merit in the revision petition, the same stands dismissed.

12.07.2019

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(H.S. MADAAN)
JUDGE

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