

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

CR No.4465 of 2019

Date of Decision : 19.07.2019

Krishan Lal

.....Petitioner

Versus

Smt. Deepa Chaudhary

.....Respondent

CORAM : HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present : Mr. Sandeep Singal, Advocate
for the Petitioner.

SUDIP AHLUWALIA, J. (ORAL)

This Revision Petition is directed against the impugned order dated 24th May, 2019, passed by the Ld. Civil Judge (Junior Division), Rohtak.

2. The Amendment Application (Annexure P-3) of the Petitioner, who is a defendant in the original Suit, was partially allowed vide the impugned order. He had sought for incorporating certain additional facts in his original Written Statement by inserting Sub-Paras to original Para Nos.5 and 8 of his pleadings. The amendment sought in relation to Paragraph No.5 was allowed by the Ld. Court below but that concerning Paragraph No.8 of the Preliminary Objections, was rejected.

3. It may be mentioned that the original Suit (Annexure P-1)

had been filed by the Respondent for possession in respect of a specified property/Shop, details of which were described in Paragraph No.1 of the Plaint. The Petitioner/Defendant disputed the claim concerning the said Shop in his Written Statement. However, vide his aforesaid Amendment Application, he also sought to incorporate certain additional facts concerning a different property being a Plot situated at Sant Nagar, Rohtak, which was not the subject matter of the Suit filed by the Respondent.

4. The Ld. Court below disallowed such amendment by observing *inter alia*, “*In this regard, it is significant to mention that this proposed amendment speaks of another property in which allegedly plaintiff and defendant have ½ share each but the gift deed in favour of plaintiff is allegedly a nullity. The reason is that a gift deed was executed in favour of defendant which was prior in time and by virtue of which he became the owner of the property. This is a separate cause of action and for which a separate remedy is available to defendant. He can challenge the ½ share of plaintiff in that property on the ground of she being bereft of title*”.

5. Having carefully considered the matter, this Court is in full agreement with the above observations of the Ld. Court below. It is to be remembered that the Suit was filed only in relation to one specified property and the other property regarding which the Petitioner intended

to assert his claim by way of addition of the facts narrated in his Amendment Application concerning Paragraph No.8 of the Preliminary Objections, was not at all the subject matter of the Suit. To put it in other words, such facts were altogether irrelevant to the controversy, as raised in the original claim of the Respondent/Plaintiff, and in case the Petitioner did have any tangible grievance to the effect that he was being wrongfully sought to be deprived of his legitimate interest in the other property located in Rohtak, the appropriate remedy for him ought to have been to either sue independently on his own cause of action which was separate from that of the Respondent/Plaintiff, or otherwise at least to do so by way of a counter claim in the on-going Suit, but neither of these two courses were adopted.

6. No grounds are, therefore, made out to interfere with the impugned order.

7. Dismissed.

July 19, 2019

Dpr

(SUDIP AHLUWALIA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No