

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

**Civil Revision No.4977 of 2019 (O&M)
Date of Decision: 22.08.2019**

Manjeet Kaur @ Maya

.....Petitioner

Vs

Manjeet Kaur and others

...Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. Kashish Garg, Advocate
for the petitioner.

RAJ MOHAN SINGH, J.

[1]. Petitioner has preferred this revision petition against the order dated 17.05.2019 passed by the Civil Judge (Jr. Divn.) Kalka whereby two applications filed by the defendants under Order 6 Rule 17 CPC for amendment of the written statements were allowed.

[2]. Perusal of the record would show that one application was filed by defendant No.1 and second application was filed by defendants No.2 to 5. The subject matter of the application filed by defendant No.1 is that in the original written statement it was inadvertently mentioned in para no.1 of the preliminary objection and in para nos.2 and 3 on merits of the reply that Jaswant

Singh i.e. father of defendant No.1 had expired and the mother of defendant No.1 got married to Arjun Singh. The proposed amendment was to the effect that in fact Jaswant Singh renounced the world leaving behind his matrimonial obligations and his relatives got married the mother of defendant No.1 with Arjun Singh i.e. real brother of Jaswant Singh.

[3]. In the original written statement factum of death of Jaswant Singh was recited whereas in the proposed amendment factum of civil death would come to fore and by all necessary implication, he would be presumed to be civilly dead subject to the evidence to be led by the parties at an appropriate stage. The fact remains that whether Jaswant Singh died physically or by virtue of being not heard for seven years would not change the nature of the suit, nor the same would cause any prejudice to the case of the plaintiff.

[4]. The second application filed by defendants No.2 to 5 was also in the context of aforesaid amendment.

[5]. The case is still at the stage of evidence of the plaintiff. It is a settled principle of law that amendment of the written statement is to be liberally construed. Even the defendant can take inconsistent pleas in the written statement by way of amendment, but in the instant case, there is no such

inconsistency between the original pleadings as well as the proposed amendment in the written statement.

[6]. Factum of death of Jaswant Singh either physically or by dint of presumption after expiry of seven years would be debated with reference to the evidence to be led by the parties. The marriage of mother of defendant No.1 with Arjun Singh i.e. real brother of Jaswant Singh would also be debated on the basis of evidence to be led by the parties. The indulgence has been granted by the trial Court and the amendment has been allowed subject to payment of costs of Rs.2,000/- each i.e. an amount of Rs.2,000/- towards costs is to be paid by defendant No.1 and similar amount is to be paid by defendants No.2 to 5 to the plaintiff.

[7]. In view of observations recorded hereinabove, I see no justification to interfere in the impugned order. The revision petition is found to be devoid of merits and is accordingly dismissed.

August 22, 2019

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No