

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

**CR No.6235 of 2019
Date of Decision:30.09.2019**

JASMER SINGH AND OTHERS

...Petitioners

Versus

KAMLA AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Kamaldeep Singh Redhu, Advocate for the petitioners.

DEEPAK SIBAL, J. (ORAL)

The present petition is directed against the order dated 05.09.2019 passed by the Civil Judge (Junior Division), Pehowa (for short-the Trial Court) through which an application filed by respondents No.1 and 2 seeking therein amendment of their plaint has been allowed.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition, are that respondents No.1 and 2 filed a suit seeking therein to declare release deed dated 13.06.2008 as null and void. They also claimed joint possession of the property detailed and described in para No.1 of the plaint (for short-the suit property).

Inter alia, the case set up by respondents No.1 and 2 was that the suit property was ancestral in nature and that since the husband of respondent No.1 and father of respondent No.2-Sishpal was a man of bad habits and used to remain under the influence of liquor, the petitioners, by committing fraud, got executed from him the impugned release deed.

On being put to notice, the petitioners appeared before the Trial Court and denied that the suit property was ancestral in nature. The allegations

of them having committed fraud were also denied.

Thereafter respondents No.1 and 2 filed an application under Order 6 Rule 17 CPC seeking therein to amend their plaint to introduce a fact that through an oral family settlement certain lands were transferred between the predecessors-in-interest of respondents No.1 and 2 and the petitioners. The Trial Court allowed the sought amendment. Such order of the Trial Court is under challenge in the present proceedings.

Learned counsel for the petitioners has been heard.

Respondents No.1 and 2 had filed a suit seeking therein to declare the release deed dated 13.06.2008 as null and void. Joint possession of the suit property was also claimed. Through application filed by them under Order 6 Rule 17 CPC they sought to amend their suit through which they sought to introduce certain facts to the effect that through an oral settlement the predecessors-in-interest of respondents No.1 and 2 and the petitioners transferred amongst themselves certain tracts of land. The details of such lands were also given in the sought amendment.

The above amendment sought by respondents No.1 and 2 does not change the nature of the suit and is rather in furtherance with the prayer made therein. The amendment sought is also at the initial stage of trial as admittedly till date the Trial Court has not even framed the issues. Allowing the amendment would also not cause any prejudice to the petitioners as they would be given an opportunity to file an amended written statement to the amended plaint.

Dismissed.

(DEEPAK SIBAL)
JUDGE

September 30, 2019

Jyoti-1 Whether speaking/reasoned Yes/No Whether Reportable Yes/No