

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

C.R. No.1533 of 2018 (O&M)

Date of Decision.09.04.2019

Gurdial Singh

...Petitioner

Vs

Surjit Singh and others

.Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. L.S. Sidhu, Advocate
for the petitioner.

None for the respondents.

:-

AMIT RAWAL J. (ORAL)

The present revision petition is directed against the impugned order dated 27.11.2017 (Annexure P-7) whereby application of the petitioner-plaintiff for amendment of the plaint has been dismissed.

Mr. L.S. Sidhu, learned counsel appearing on behalf of the petitioner submitted that the plaintiff sought the amendment on the ground that earlier defendants No.1 and 2 were in ownership of 33 kanals 5 marlas, out of which 22 kanals 5 marlas of land was inherited from Basant Kaur but later on, defendants No.3 and 4 filed suit qua declaration of property left by Basant Kaur, which was decreed by the trial court and defendants No.1 and 2 lost in appeal upto this Court. The petitioner-plaintiff changed their counsel and the new counsel found that claim in the plaint had wrongly been made qua entire land measuring 33 kanals 5 marlas instead of 22 kanals 5 marlas and in these circumstances, application for amendment was moved. The trial Court erred in dismissing the application on the ground that issues had already been framed and plaintiffs have also examined six witnesses and the application for amendment is an attempt to fill up the lacuna. The

amendment sought is clarificatory in nature and does not tantamount to changing the nature of the suit rather it would help the Court in proper adjudication of the suit, thus, urges this Court for setting aside the impugned order.

There is no representation for the respondents despite service.

I have heard learned counsel for the petitioner, appraised the paper book and of the view that there is force and merit in the submissions of Mr. Sidhu. The amendment sought is clarificatory in nature as it is obvious that owing to filing of suit by defendants No.3 and 4, defendants No.1 and 2 lost their right over the land measuring 22 kanals 5 marlas and as a necessary corollary, plaintiffs have to confine their prayer seeking recovery of sale consideration against land measuring 22 kanals 5 marlas instead of 33 kanals 5 marlas. In my view, the amendment sought to be incorporated is essential and necessary for adjudication of the suit. The Courts below ought to have adopted a liberal approach as the legal technicalities are hand in made to justice and ought to be used in order to advance the cause of justice.

In view of such circumstances, the order under challenge suffers from infirmity and accordingly set aside. The amendment application is allowed. Resultantly, the revision petition is allowed, subject to payment of costs of ₹7,000/- which shall be condition precedent.

(AMIT RAWAL)
JUDGE

April 09, 2019
Pankaj*

Whether Reasoned/Speaking	Yes
Whether Reportable	No