

In the High Court of Punjab and Haryana at Chandigarh

C.R. No. 3799 of 2018 (O&M)
Date of Decision: February 27, 2019

Subhash Chand

... Petitioner

Versus

Amar Singh and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Parminder Singh, Advocate,
for the petitioner.

Mr. J.K. Goel, Advocate and
Mr. Shvetanshu Goel, Advocates,
for respondents No. 1 to 5.

Amit Rawal, J. (Oral)

Present revision petition is directed against the impugned order dated 15.05.2018 whereby the application under Order 6 Rule 17 C.P.C. for amendment of the plaint and Order 1 Rule 10 CPC for impleading the State of Haryana as defendant no.6 has been dismissed.

This Court while issuing notice of motion did not accept the plea of the petitioner qua impleadment of the State of Haryana as a party, but issued notice of motion only with regard to amendment of the plaint.

Mr. Parminder Singh, learned counsel for the petitioner submitted that at page 12 of the plaint, the following amendment is sought to be incorporated:-

“Will allegedly executed by Parsa in favour of defendant no.1 is illegal, null & void ab-initio, invalid, nonet, ineffective, inoperative in the eyes of law and not binding upon the rights of the plaintiffs and that”.

And amendment in the plaint for rectification of the clerical mistakes.

Learned counsel further submitted that no prejudice would be caused as the case is fixed for plaintiff's evidence.

Mr. J.K. Goel, learned counsel appearing on behalf of respondents no. 1 to 5, has drawn attention to the prayer clause whereas emphatical challenge laid to the will and, therefore, submitted that amendment amounts to adoption of delaying tactics. The impugned order reveals that despite availing of many opportunities, matter has been come forward for evidence and urges this Court for dismissal of present revision petition.

I have heard learned counsel for the parties and perused the paper book.

Prayer clause para in the suit and other averments in paragraph no.4 of the plaint depicts that there is emphatical challenge to the will, therefore, the amendment sought to be incorporated in the plaint qua challenge to the Will cannot be permitted. However, amendment with regard to correction in para no.2 of the plaint by substituting the date as 12.09.1994 with 12.09.1944 and substituting the words 'defendants' with the words defendants no. 1 to 5 in the entire plaint including prayer para and to substitute the words 'plaintiff no.1' with the words 'defendant no.1' in the first line of para no.5 is most innocuous. Thus, the same is allowed to be incorporated.

Accordingly, present revision petition is allowed in part.

February 27, 2019
vkd

(Amit Rawal)
Judge

Whether speaking / reasoned : Yes
Whether reportable : No