

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

CR No.7177 of 2016

Date of decision: 21st January, 2020

Jagseer Singh & others

... Petitioners

Versus

Sukhdev Singh & another

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Baltej S. Sidhu, Advocate for the petitioners.

Mr. Tajinder Pal S. Makkar, Advocate
for the respondents.

FATEH DEEP SINGH, J.

The present civil revision has come about by revisionist Jagseer Singh and others who happen to be defendants in a suit for declaration etc. before the Court of learned Civil Judge (Junior Division), Gidderbaha. The dispute between the parties is over the ownership of land detailed in the headnote of the plaint. During the trial of the suit, an application was moved by the plaintiffs (now respondents Sukhdev Singh and Sampuran Singh) seeking amendment of the plaint.

The plaintiffs wanted to incorporate in the headnote of the plaint in line No.10 after the words '*to the effect that*' and before the words '*the Mutation No.10282*, the words "*The judgment and decree passed in civil suit No.413 of 10.10.1996 decided on 2.12.1996*"; in line No.11 after the word '*and*' and before the words '*the Mutation*

No.14125’ the words “*sale deed No.494 dated 14.5.2007 registered in the office of sub Registrar Gidderbaha*”; in line No.11 after the words ‘*Mutation No.14125*’ and before ‘13983’ the words “*sale deed No.3270 dated 6.3.2007 registered in the office of sub Registrar, Gidderbaha executed by Kartar Kaur in favour of Balwant Singh son of Jagir Singh*”; in line No.11 after the word ‘13983’ and before the words ‘14126 of village 13983’ the words “*sale deed No.493 dated 14.5.2007 registered in the office of sub Registrar Gidderbaha executed by Nar Singh in favour of son of Jagpreet Singh*”. Similarly, in the prayer clause line No.3 after the words ‘*headnote of the plaint*’ the plaintiffs wanted to insert “*consequently the Mutations No.10282, 14125, 13983, 14126 fully detailed in the headnote of the plaint and the judgment and decree passed in civil suit No.413 of 10.10.1996 decided on 2.12.1996, sale deed No.494 dated 14.5.2007 registered in the office of sub Registrar Gidderbaha, sale deed No.3270 dated 6.3.2007 registered in the office of sub Registrar Gidderbaha executed by Kartar Kaur in favour of Balwant Singh son of Jangir Singh, sale deed No.493 dated 14.5.2007 registered in the office of sub Registrar Gidderbaha executed by Nar Singh in favour of son of Jagpreet Singh, are also illegal null and void and ineffective qua the rights of the plaintiffs*”.

The defendants (now petitioners) have resisted the claim on the grounds that the application was not maintainable having been moved at a belated stage and would change the entire nature of the suit which is

legally not permissible, and sought dismissal of the same. The Court of learned Civil Judge (Junior Division), Gidderbaha vide impugned orders dated 15.09.2016 allowed the prayer of the plaintiffs affording one opportunity to lead evidence after filing amended plaint with costs of ₹1,000/-. The same has been challenged by the other side in this revision.

Heard Mr. Baltej Singh Sidhu, Advocate for the petitioners; Mr. Tajinder Pal Singh Makkar, Advocate on behalf of the respondents and perused the records of the case.

Undisputedly, as it unfolds the plaintiffs have challenged the mutations which have come about on the basis of sale deeds No.493 dated 14.05.2007, No.494 dated 14.05.2007 and No.3270 dated 06.03.2007, and also wants to incorporate challenge to judgment and decree passed in civil suit No.413 dated 10.10.1996 decided on 02.12.1996.

Mr. Baltej Singh Sidhu, Advocate representing the petitioners and so Mr. Tajinder Pal Singh Makkar, Advocate on behalf of the respondents concede that all these documents including mutations pertain to the same very property and that the plaintiffs have already challenged the mutations but due to inadvertence, as is the stand of the plaintiffs, they failed to also challenge the sale deeds on the basis of which these mutations have come about, and therefore, to the mind of this Court there appears to be no change in the relief being prayed for and sought in the suit by way of this amendment. No doubt, with the amendment to Order

VI Rule 17 CPC with effect from 01.07.2002, a proviso has been made that no such application for amendment shall be allowed after the trial has commenced unless the Court comes to a conclusion that in spite of due diligence the party could not have raised the matter before the commencement of trial. Parties in the present case are aware of the subject matter of dispute between them and it is in respect of the same, sale deeds and mutations under challenge have come about and therefore, would not be of much aggrievement for the petitioners that there has been metamorphosis of the suit. The parties were fully aware of the contentious issues between them and had led their evidence on the basis of the same to lay claim over the ownership of the subject matter of dispute. Therefore, by no stretch of imagination it could be prejudicial to interest of the parties, particularly the petitioners. In the light of the same, this Court does not feel inclined to allow the present revision petition. The same as such stands dismissed.

(FATEH DEEP SINGH)
JUDGE

January 21, 2020

rps

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No