

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-7529-2018(O&M)
Date of decision: 26.02.2020

Kuldeep Singh

.....Petitioner

Versus

Hardeep Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.H.K.Aurora, Advocate for the petitioner

Mr. Rajiv Joshi, Advocate for the respondents

ANIL KSHETARPAL, J. (ORAL)

The plaintiff-petitioner has filed the present revision petition against order passed by learned Rent Controller dismissing application for permission to amend the plaint. At this stage, it may be relevant to note that although the issues have been framed on the basis of pleadings of the parties, however, no evidence of the plaintiff, as yet, been recorded.

Plaintiff filed the present suit claiming possession of the property left by his father Kabul Singh who died on 16.9.2013. The plaintiff also claims that late Sh. Kabul Singh executed a registered Will in his favour on 9.11.2012. It is the case of the plaintiff that defendants were taking care of Kabul Singh as servants. The defendants contested the civil suit by filing written statement. Thereafter, issues were framed on 22.5.2018.

The plaintiff at that stage filed an application for permission

to amend the plaint to the following effect:-

“(a) In Para No.1 at the last i.e after the word “his attorney”, words/line “**Attorney of plaintiff is fully aware and conversant about the facts of the present case.**”

(b) In para No.4 after the word “the plaintiff” in the Seventh line following paragraph be added:-

“and filed a false and frivolous complaint dated 25.9.2013 to the police against the plaintiff. In that complaint, compromise was effected on 30.9.2013 between plaintiff and Jhalman Singh defendant (now deceased), his family members/ L.Rs who are now defendants in the present case. As per the compromise dated 30.9.2013 Kuldeep Singh plaintiff is owner to the estate of his deceased father Kabul Singh, including agricultural land, house in question and any other property of Kabul Singh. Moreover as per compromise dated 30.9.2013 Rs. 4,70,000/- as compensation of standing crop at that time and Rs.4,00,000/- expenses occurred on ailment of deceased Kabul Singh, were paid to Amandeep Kaur wife of Hardeep Singh (defendant No.1) son of Late Jhalman Singh, vide receipt dated 20.9.2013 in the presence of respectable and Amandeep Kaur

received the total amount of Rs.8,70,000/- on behalf of deceased Jhalman Singh and his L.Rs/family members in their presence. Jhalman Singh was also present at that time and put his thumb mark on the receipt and the agreement both dated 30.9.2013. Copy of the compromise and receipt dated 30.9.2013 are attached herewith. As per the compromise it was agreed that plaintiff and his wife also can reside and stay in their house i.e house in question, at village Dhadda Khurd as per their own sweet will. But when on the next day i.e on 1.10.2013 plaintiff went to his ancestral house situated at Village Dhadda Khurd i.e House in question then defendants present there, did not allow the plaintiff and his wife to enter the house and started using abusive language with an intent to defame the plaintiff and his family and forcibly pushed them out from the said house. The plaintiff requested so many times not to do so, as yesterday the whole matter has been compromised between us but they did not bother to the request of the plaintiff. Not only this, the defendant even threatened that they have filed a civil suit against the plaintiff of house in question and claimed that house as their own. Hardeep Singh defendant no.1 also threatened that “Asin case Kita hai tuci kar lao jo karna”. After

hearing that and keeping in view the circumstances, immediately plaintiff revoked the license of the defendants in their present on that day.”

(c) In para No. 7 in line No.3 after the word “on 1.10.2013 i.e” following line be added as **“when the defendants resiled from compromise dated 30.9.2013 and”**

The defendant contested the aforesaid application. Learned Trial Court as noticed above dismissed the application on the ground that it has been filed at a belated stage and would result in changing the nature of the suit.

Both reasons assigned by the learned Trial Court are erroneous. The stage of the suit is preliminary. The plaintiff has not as yet started recording his evidence. There is no change in the nature of the suit. The suit remains as it is i.e suit for mandatory injunction in alternative suit for possession of the house property with consequential relief of permanent injunction.

The Courts while deciding the application for permission to amend the pleadings is required to see as to whether the amendment sought for is necessary and relevant for the decision of the case or not. Once the Court applies its mind towards the relevance of the amendment sought for it becomes easy for the Court to decide the applications. In the present case, the plaintiff wishes to add pleadings to the effect that after the death of Kabul Singh, there was a settlement and some amount was paid to the plaintiff and a document was reduced into writing on

payment of Rs.8,70,000/-. Such document would be relevant for the decision of the case.

Keeping in view the aforesaid facts, the present civil revision is allowed. Order under challenge is set aside. The plaintiff would be permitted to file amended plaint, if not already filed. Thereafter, the Trial Court would proceed with the matter.

Needless to observe that observations made by this Court while deciding the revision petition would not affect the final decision of the case.

26.02.2020	(ANIL KSHETARPAL)
rekha	JUDGE
Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No