IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

125 **CR No.628 of 2020 (O&M)**
Date of decision : 06.02.2020.

Savita and another

... Petitioners

Versus

Virender

.. Respondent

CORAM :HON'BLE MR.JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Rajiv Sharma, Advocate for the petitioners.

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Anupinder Singh Grewal, J. (Oral)

The petitioners/defendants have challenged the order passed by the trial Court on 17.01.2020 whereby their application for amendment of the written statement has been dismissed.

Learned counsel for the petitioners contends that the amendment which was sought by the petitioners/defendants was necessary to adjudicate the controversy at hand and therefore, the application should have been allowed.

Heard.

The respondent-plaintiff had filed a suit for declaration to the extent that he was the owner in possession of the suit land and had also sought consequential relief of permanent injunction restraining the petitioners/defendants from interfering in the peaceful possession therewith. The parties had filed their pleadings and led evidence in their support. The case was fixed for rebuttal evidence and arguments. At that stage, the petitioners/defendants had preferred an application under Order 6 Rule 17 CPC read with Section 151 CPC for amendment in the written statement to the extent that the suit land had been sold to several persons vide different sale

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deeds. The amendment has been disallowed by the trial Court by observing that when defendant No.1 had appeared in the suit on 18.08.2018, she had been restrained from alienating the suit property. The stay order was confirmed on 14.11.2018 by the Appellate Court. However, after the stay order, the petitioners/defendants had flouted the order staying alienation of the suit property and had continued to sell the same. The petitioner No.1/defendant No.1, while appearing as DW-1, had filed an affidavit Ex.DW1/A but it was not mentioned therein that the suit property had been sold. Defendant No.1 had also made a statement on 23.05.2019 that she will pay a sum of ₹39 lacs qua a dishonoured cheque which had been issued to the respondent-plaintiff by 30.11.2019 or else the sale or mutation be cancelled, but the same had not been done. On 30.11.2019, when she had made the aforenoted statement qua the payment, she did not disclose that the suit property had been sold. It is, in such circumstances, that the application of the petitioners/defendants for amendment of the pleadings had been disallowed.

In view of the aforesaid facts and circumstances, I am in agreement with the impugned order passed by the trial Court and do not find any merit in this petition, which stands dismissed.

(ANUPINDER SINGH GREWAL)
JUDGE

February 06, 2020
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Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No

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