

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 7943 of 2016

Date of Decision: 19.02.2020

Mahavir Parshad and Others

... Petitioner(s)

Versus

Smt. Kunti Devi and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal

Present: Mr. Pritam Singh Saini, Advocate
for the petitioner(s).

Mr. A.K.Gupta, Advocate
for respondents No.1 to 4.

Anil Kshetarpal, J.

Some of the plaintiffs have filed the present revision petition under Article 227 of the Constitution of India challenging the order passed by the learned trial Court permitting amendment of the plaint and allowing impleadment of certain defendants. The amendment has been prayed for to incorporate certain facts arising from steps taken by the parties to the suit during its pendency.

Some of the facts are required to be noticed. 61 plaintiffs filed a suit for declaration with consequential relief of permanent injunction. During the pendency of the suit, on the basis of some settlement, a decree was passed on 23.05.2011. However, thereafter, on an application, the suit was restored to its original number vide order dated 29.10.2014. In the meantime, certain parties, as noticed above, have transferred the property in

favour of the persons who are now sought to be added as the defendants. All actions on part of the parties are covered by the Rule of *Lis Pendence*. Any action/step taken by the parties during the pendency of the litigation becomes subservient to the decision of the suit.

Keeping in view the aforesaid facts, the learned trial Court has allowed the application.

Learned counsel for the petitioners contends that the nature of the suit is sought to be changed and one application cannot be filed for addition of the parties as well as for amendment of the suit.

This Court has considered the submissions, however, finds no substance therein. What has been prayed for and allowed by the Court by way of amendment, is only consequence of the steps having been taken by the parties during the pendency of the suit. Therefore, it cannot be said that the nature of the suit is being changed. There is hardly any amendment in the main body of the pleadings. Only the subsequent events are sought to be added. Hence, it cannot be said that the nature of the suit is being changed.

Learned counsel for the petitioner further submits that the petitioners are also the plaintiffs who are opposing the amendment. As noticed above, 61 plaintiffs filed the suit. An application for amendment was filed by plaintiffs No. 13 to 16A and 18 to 61. The remaining plaintiffs are not alleged to be supporting the applicants. Hence, they shall be at liberty to move an appropriate application before the learned trial Court.

As regards second contention, learned counsel for the petitioner fails to draw attention of this Court to any bar or prohibition in filing one application containing prayer for amendment of the pleadings as well as for

impleadment, particularly when the imlpeadment is consequent to the amendment sought for. Hence, no ground is made out to interfere.

Dismissed.

(Anil Kshetarpal)
Judge

February 19, 2020
“DK”

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No