

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

**268**

**CR-4850-2019**

**DATE OF DECISION: 14.01.2020**

**ANIL CHAUHAN**

**... Petitioner(s)**

***Versus***

**MAHIPAL SINGH CHAUHAN AND OTHERS ... Respondent(s)**

**CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL**

Present: Mr. Atul Gaur, Advocate for  
Mr. Sumeet Goel, Advocate for the petitioner.

Mr. Bhuvnesh Rakhela, Advocate for the respondents.

**ANUPINDER SINGH GREWAL, J. (ORAL)**

The petitioner has impugned the order dated 28.05.2019 (Annexure P-1) whereby his application for amendment of the plaint has been dismissed.

Learned counsel for the respondents contends that when the notice was issued by the coordinate Bench of this Court on 26.08.2019, the undertaking of the learned counsel for the petitioner had been recorded that he will not lead any evidence in case the amendment is allowed.

Learned counsel for the petitioner contends that the petitioner had filed the suit for declaration that the sale deed which was executed by respondent No.1 was null and void. Respondent No.1 is the father of the petitioner. He also contends that the petitioner had pleaded that respondent No.1/defendant No.1 had been entered in the revenue record as owner of the suit land being head/karta of the family though he was only owner to the extent of 1/7<sup>th</sup> share of the suit land and the plaintiff and

performa respondents are owner of the remaining 6/7<sup>th</sup> share of the suit property. The petitioner had sought amendment in para 1-A of the plaint only to the extent that the suit property detailed in para No.1 is the joint hindu family ancestral coparcenary property of the plaintiff and vendee/defendant.

Learned counsel for the respondent further contends that the petitioner had preferred the application after more than 6 years of filing of the suit and it is only to further delay the proceedings, and therefore, the impugned order, dismissing the application, cannot be faulted.

A bare perusal of the impugned order indicates that the application has been dismissed solely on the ground that it has been filed after a long time. The application has been preferred after a long time and after the evidence of the plaintiff had been closed. It could not be held that the petitioner could not prefer the application earlier in spite of due diligence. The very foundation of the plaint of the petitioner is that the sale deed which had been executed by defendant No.1 was null and void as the petitioner along with defendants had a share in the property. The land which had been sold by defendant No.1 was jointly held by the petitioner and the defendants. The defendant No.1 had been recorded as owner of the land only on account of his being the head /karta of the family and he was owner only to the extent of 1/7<sup>th</sup> share while the petitioner and other defendants were owners of the 6/7<sup>th</sup> share of the suit property. Therefore, the amendment would not change the nature of the suit and further delay in preferring the application. He shall compensate the respondent by way of costs.

The apprehension of the respondent that the petitioner is trying to delay the matter has already been redressed by the coordinate Bench of this Court in the order issuing notice of motion. The undertaking of the counsel for the petitioner was recorded that he shall not lead evidence in case the amendment is allowed.

Consequently, the petition is allowed and the impugned order dated 28.05.2019 (Annexure P-1) is set aside. The amendment as sought for is allowed subject to payment of cost of Rs.20,000/- to the opposite party. However, it is made clear that the petitioner shall not lead any evidence in terms of his undertaking with regard to the proposed amendment.

The petition stands disposed of.

(ANUPINDER SINGH GREWAL)  
JUDGE

14.01.2020.

SwarnjitS

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|---------------------------|---|----------|
| Whether speaking/reasoned | : | Yes / No |
| Whether reportable        | : | Yes / No |