

Sr.No.111

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

CR No.441 of 2021

Date of decision:01.03.2021

Kanwalpreet Singh

... Petitioner(s)

versus

Gurpreet Kaur and another

... Respondent(s)

Coram: Hon'ble Mr. Justice Jasgurpreet Singh Puri

Present: Mr. Ashok Paul Batra, Advocate
for the petitioner.

Through Video Conference

Jasgurpreet Singh Puri, J.(Oral)

Present revision petition has been filed under Article 227 of Constitution of India praying for setting aside the order dated 28.01.2021 passed by the Additional Civil Judge (Sr. Division) Fazilka, District Fazilka in Civil Suit No.1322, then assigned CS No.805 of 09.10.2017 titled as Gurpreet Kaur versus Kanwalpreet Singh and another by which the application for amendment of the plaint filed by the respondent-plaintiff Gurpreet Kaur has been allowed.

Learned counsel for the petitioner has submitted that vide impugned order the learned Additional Civil Judge (Sr. Division) Fazilka has exceeded its jurisdiction by allowing the amendment under Order VI

Rule 17 CPC because the allowing of the amendment has in fact changed the nature of the suit and furthermore, the amendment could not have been allowed because it was barred by limitation. He has further submitted that civil suit was filed for recovery of money being value of dowry/articles/stridhan as well as the amount spent at the time of Ring ceremony, Shagan as well as marriage and therefore, the present amendment will be barred by limitation.

I have heard the learned counsel for the petitioner.

In the present case suit for recovery was filed by the plaintiff-respondent No.1 for recovery of Rs.30 lakhs being value of dowry/articles/stridhan as well as the amount spent at the time of Ring ceremony , Shagan as well as marriage and to Rs.7,42,225/- on account of interest. The proposed amendment was sought in para 1 of the plaint as well as in 8th line of para 4 of the plaint. In the original plaint in para No1 the plaintiff had averred that the plaintiff has one brother namely Jaspreet Singh and belongs to a well reputed family. The marriage of the plaintiff was performed with defendant No.1 on 07.02.2015 at City Garden Palace Fazilka as the per the demands and wishes of defendants and their family members according to sikh rites and rituals by way of Anand Karaj in the presence of Holy Guru Granth Sahib ji at Gurdawara Tohba Sahib village Rampura Tehsil and District Fazilka.

The amendment by which para No.1 of the suit is sought to be substituted contained that the marriage of the plaintiff was performed with defendant No.1 on 14.04.2013 as per sikh rites and ritual by way of Anand Karaj in the presence of Guru Granth Sahib ji and also in the presence of

relatives of the parties. The plaintiff is a resident of Australia and on the next day of marriage she went to Australia alone where she applied for the visa of her husband/defendant No.1. Thereafter, near about 01 year and 10 months later, visa was provided to defendant No.1 by Government of Australia and the same was sent to him. The plaintiff also came back to India for accompanying her husband to Australia. At the asking of defendant No.1 and his parents the remaining ceremonies and function of marriage like Muklawar etc were performed at City Garden, Fazilka on 07.02.2015. After completion of function at City Garden, the parties to the marriage visited Gurdawara Tobha Sahib village Rampura, Tehsil and District Fazilka and bowed their heads before Holy Granth Sahib ji for blessings.

So far as the amendment of 8th line of para No.4 is concerned the plaintiff wanted to delete the line *“at Tohba Sahib Gurdawara at village Rampura, Tehsil Fazilka, State Punjab (India)”* and to insert the words *“At India”*. While considering the application filed by the plaintiff, the Court observed that if the inquiry report conducted by the police is seen then the date of marriage was mentioned as 14.04.2013 and as per the Marriage Certificate also the date of marriage was mentioned as 14.04.2013, therefore, amendment was in consonance with factual position which is not disputed by the plaintiff and defendants. Learned Additional Civil Judge (Sr. Division) Fazilka further observed that the present case was still at the initial stage as the issues are not yet framed, therefore, the application for amendment deserves to be allowed because liberal approach has to be adopted in such like cases where correction of mistake is to be done.

Learned Additional Civil Judge (Sr. Division) Fazilka has further observed that so far as the issue of limitation is concerned the same is a mixed question of law in fact and can be decided later in that respect.

Perusal of the amendment of the plaint would show that there seems to be only a correction of a factual mistake with regard to the date of marriage and also the place of marriage and does not in a way seem to change the nature of suit. Apart from the same, the suit is at initial stage and issues are yet to be framed. So far as the plea taken by learned counsel for the petitioner that such an amendment would be barred by limitation, the same cannot sustain as the same is a mixed question of law and fact and, therefore, would be seen at the relevant stage.

In view of the above, no infirmity can be found in the order passed by the learned Civil Judge, therefore, the present petition is hereby dismissed.

1st March, 2021

Shivani Kaushik

[JASGURPREET SINGH PURI]

JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No