

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 143 of 2022 (O&M)

Date of Decision: 07.05.2022

Sandeep Sond and Another

... Petitioner(s)

Versus

Parkash Kaur and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Sunny K. Singla, Advocate
for the petitioner(s).

Mr. Jaideep Verma, Advocate
for the respondent No.1 to 6.

Anil Kshetarpal, J.

1. The defendant No.2 and 3 assail the correctness of the order passed by the trial Court while permitting the plaintiffs to seek relief of declaration to the effect that they along with defendant No.4 are the owners in possession of the property left behind by their father on the basis of a registered Will dated 08.05.2007.

2. The plaintiffs are the daughters of late Sh. Amarnath. They filed a suit for grant of decree of prohibitory injunction restraining the defendant No.1 to 3 from alienating the suit property. It was pleaded in the plaint that late Sh.Amarnath had executed a registered Will in their favour as well as in favour of the defendant No.4. During the pendency of the suit, an application was filed for permission to amend the plaint so as to seek the relief of declaration. The aforesaid application was allowed by the trial Court on

3. Heard the learned counsel representing the parties and with their able assistance, perused the paper-book.

4. The learned counsel representing the petitioner contends that by such amendment, the nature of the suit stands changed and the application for permission to amend the plaint has been filed after the issues have also been framed. He further submits that the suit had become barred by time.

5. Per contra, the learned counsel representing the respondent No. 1 to 6 contends that the plaintiffs, while filing the suit, have claimed ownership of the property on the basis of a registered bequest made by their father, therefore, the relief of declaration is inherent in the suit.

6. The argument of the learned counsel representing the petitioners that the nature of the suit has been permitted to be changed, is without any substance. Previously also, the plaintiffs had filed the suit claiming decree of injunction on the basis of a registered Will, executed by their father on 08.05.2007. Even now, post the amendment of the plaint in the said suit, the plaintiffs claim ownership on the basis of the aforesaid registered Will. Hence, there is no change in the nature of the suit.

7. The second argument of the learned counsel representing the petitioners is that the application was filed after the issues have also been framed. On a careful reading of Order VI Rule 17 CPC, it is evident that the provisio does not debar the trial Court from permitting amendment of the pleadings after framing of the issues. In the present case, in fact, the substantive relief, claimed by the plaintiffs, remains the same.

8. As regards the next argument of the learned counsel representing the petitioners with regard to the limitation, it may be noted that

claim to be in possession. In such circumstances, at this stage, it will not be appropriate to record any conclusive finding on the question of limitation.

9. In view of the above, no ground is made out to interfere. Hence, the present revision petition is dismissed.

10. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

May 07, 2022
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No