

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

**272**

**CR No.2469 of 2018 (O&M)  
Date of Decision : 07.12.2022**

Faqir Singh and Another

....Petitioners

**VERSUS**

Tara Singh and Another

.....Respondents

**CORAM : HON'BLE MRS. JUSTICE ALKA SARIN**

Present : Mr. Anish Setia, Advocate for the petitioners.

Mr. Amit Dhawan, Advocate for respondent no.1.

**ALKA SARIN, J. (Oral)**

The present revision petition has been filed under Article 227 of the Constitution of India challenging the order dated 20.01.2018 whereby the application filed by the petitioners for amendment of the plaint has been dismissed.

Brief facts relevant to the present *lis* are that the plaintiff-petitioners filed a suit for declaration to the effect that they are owners in possession of the house situated in village Jamsheer Khas, Jalandhar Cantt., details of which are described in the heading of plaint as well as for permanent injunction restraining the defendant-respondents from dispossessing the plaintiff-petitioners, alienating and creating any charge over the house in question. The said civil suit was filed on 25.11.2015. On 17.02.2016, a sale deed *qua* the property in dispute was executed by defendant-respondent no.1 in favour of defendant-respondent no.2. By way of an amendment application the plaintiff-petitioners sought to challenge the sale deed dated 17.02.2016. The said application was contested and a reply was filed by the defendant-respondents. By way of impugned order the said

application was dismissed on the ground that it would change the nature of the suit.

Learned counsel for the plaintiff-petitioners would contend that the said sale/transfer deed, by whichever name it may be referred to, has been executed during the pendency of the suit and it is imperative that the same is challenged in the plaint. It is further the contention that the said amendment would in no way change the nature of the suit.

*Per contra* learned counsel for the defendant-respondents has contended that the application has rightly been dismissed vide the impugned order and that the amendment if permitted would change the nature of the suit and that in any case the principle of *lis pendens* would apply.

I have heard learned counsel for the parties.

In the present case though issues have been framed, evidence is yet to start. During the pendency of the suit, sale deed dated 17.02.2016 has been executed by defendant-respondent no.1 in favour of defendant-respondent no.2. In view of the fact that the sale deed has been executed during the pendency of the suit, an application for amendment of the plaint was filed challenging the said sale deed. As per counsel, the stand taken in the written statement filed by the defendant-respondents was that the said property stood transferred vide transfer deed dated 17.02.2016 executed by defendant-respondent no.1 in favour of defendant-respondent no.2 and it was thereupon that the plaintiff-petitioner learned about the sale deed/transfer deed and hence the application for amendment.

Proceedings are still at the initial stage inasmuch as the evidence is yet to commence. It is not a case where the plea could not be

raised despite due diligence since sale/transfer deed has been executed during the pendency of the suit and the plaintiff-petitioners came to know about the same at the time of filing of the written statement.

In view of the above, the impugned order cannot be sustained and the same is set aside. The application filed by the plaintiff-petitioners for amendment of the plaint is accordingly allowed.

The present revision petition is disposed off in the above terms.  
Pending applications, if any, also stand disposed off.

**07.12.2022**  
**jk**

**( ALKA SARIN )**  
**JUDGE**

NOTE: Whether speaking/non-speaking: Speaking  
Whether reportable: YES/NO