

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

211

CR-3275-2016 (O&M)

Date of Decision: 17.08.2022.

Kharak Singh and others

...Petitioners.

Versus

Baljit Singh and another

....Respondents.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Gurcharan Dass, Advocate
for the petitioners.

Mr. R.S. Pandher, Advocate
for respondent No.2.

Harkesh Manuja, J.

By way of present petition, the petitioners/plaintiffs have challenged the order dated 26.04.2016 passed by the learned Civil Judge (Junior Division), Khanna, whereby an application seeking amendment of plaint to the extent of including some Khasra numbers of the joint land in a suit for possession by way of partition, has been dismissed.

In short, the petitioners filed a suit for separate possession by way of partition regarding their joint property alongwith respondents/defendants. Though on an earlier occasion also, an application was moved on behalf of the petitioners seeking amendment of plaint regarding inclusion of some land as part of the suit property, which was allowed by the trial

Court. Even at that point of time, though the respondents raised an objection regarding property now sought to be included having been left by the petitioners, yet no effort was made in this regard.

However, by way of the present application prayer was made for including five more Khasra numbers as part of the suit property, as detailed in the amendment application. As pointed out hereinabove, although the petitioners have been negligent to some extent in pursuing their suit by not including the entire joint land. Still, the application filed by the petitioners seeking amendment of plaint for including those five Khasra numbers needs to be allowed, in the interest of justice. The allowing of application for amendment of plaint at the instance of petitioners/plaintiffs is also not going to cause any serious prejudice to the respondents/defendants. Rather, the amendment sought is in their interest also and the same would further their cause as well, which is partition of the joint land, being indeed their vested right attached to the joint property.

Be that as it may, at the time of issuance of notice of motion, this Court, vide order dated 09.05.2016, directed the petitioners to deposit Rs.10,000/- as costs. It has been pointed out today by the learned counsel for the petitioners that in pursuance to the said order, after depositing the costs, the said amount has already been withdrawn/ received by the respondents. Having withdrawn the amount of costs, even otherwise the respondents are not with in their right to contest the petition any more.

Since there has been some delay on the part of the petitioners/ plaintiffs in seeking amendment as prayed for in the application dated

30.01.2016 to balance the equities, the petitioners/ plaintiffs are burdoned with another cost of Rs.10,000/-. Consequently, revision petition is allowed and the impugned order dated 26.04.2016 is hereby set aside subject to deposit of cost as aforesaid.

(HARKESH MANUJA)
JUDGE

17.08.2022

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Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No