

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 3444 of 2017 (O&M)

Date of Decision: 20.07.2022

Harbans Kaur (Deceased) through her legal representative

... Petitioner(s)

Versus

Amrik Singh alias Beer Singh

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. G.S.Punia, Senior Advocate
with Ms. Harveen Kaur, Advocate
for the petitioner(s).

Mr. Himanshu Puri and Mr. Sunny K. Singla, Advocates
for the respondent.

Anil Kshetarpal, J.

1. The plaintiff's application for permission to pray for an alternative relief of possession has been dismissed by the learned trial Court. The plaintiff has already filed a suit for declaration claiming that the transfer deed dated 27.07.2011 is null, void, invalid, ineffective and inoperative.

2. The learned trial Court has declined the application on the ground that the plaintiff while filing the suit claimed that she was not in possession of the suit property.

3. The learned trial Court has also observed that if the amendment is allowed, it would result in *de novo* trial which would delay the disposal of the case. The plaintiff is only seeking an alternative relief. It has been pleaded that if the plaintiff is not found in possession, then the decree for possession be passed. For claiming such relief, no evidence is required to be

led.

4. Keeping in view the aforesaid facts, this revision petition is allowed. The order dated 17.04.2017 is set aside. Let the amended plaint, if not already filed, be filed by the plaintiff within a period of one month, from today. The trial Court is directed to proceed to decide the suit as the parties have already concluded their evidence.

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

(Anil Kshetarpal)
Judge

July 20, 2022
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No