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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-583-2017 (O&M)
Date of decision : 27.07.2022

Balwinder Singh ... Petitioner(s)

Versus

Karnail Singh & Ors. ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Karan Gupta, Advocate for the petitioner.

Mr. Mayank Mathur, Advocate for respondent No.1.

Mr. Rai Singh Chauhan, Advocate for respondent Nos.2 and 7.

Mr. Ramandeep, Advocate for respondent No.4.

ALKA SARIN, J. (ORAL)

The present revision petition under Article 226/227 of the Constitution of India has been filed to challenge the order dated 11.01.2017 (Annexure P-1) dismissing the application filed by the plaintiff-petitioner for amendment of the plaint.

Learned counsel for the plaintiff-petitioner would contend that the plaintiff-petitioner filed a suit for declaration to the effect that he is owner and in possession of the estate left by Smt. Shardi wife of Hari Ram on the basis of Will dated 17.03.2006 and that the Will propounded by the defendant-respondents was illegal, null and void. Learned counsel for the plaintiff-petitioner would further contend that the application for amendment

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of the plaint had been moved at the stage when the evidence of the plaintiff-petitioner had just commenced. It is further the contention of learned counsel that the Will propounded by the plaintiff-petitioner clearly states that the plaintiff-petitioner would inherit all the movable and immovable assets owned by Smt. Shardi and, hence, the amendment now sought would not change the nature of the suit in any manner. By way of the amendment the plaintiff-petitioner sought to add certain FDRs and a savings bank account in the suit property.

Per contra, learned counsel for the defendant-respondents would contend that the suit was filed on 23.12.2009 and the issues were framed on 03.05.2012. The factum of the FDRs was well within the knowledge of the plaintiff-petitioner and, hence, the application for amendment of the plaint has rightly been dismissed.

Heard.

In the present case the Will propounded by the plaintiff-petitioner states that all the movable and immovable properties owned by the Testator of the Will (Smt. Shardi) shall devolve upon the plaintiff-petitioner. The present amendment whereby the details of the FDRs and a savings bank account have been sought to be incorporated in the suit property would in no manner change the nature of the suit. In any event, in case the Will as propounded by the plaintiff-petitioner is found to be genuine, the plaintiff-petitioner would be entitled to all the movable and immovable assets of Smt. Shardi.

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In view of the above and keeping in view the fact that no injustice would be caused to the defendant-respondents by allowing the application for amendment of the plaint, the impugned order dated 11.01.2017 (Annexure P-1) is set aside. The application under Order 6 Rule 17 of the Code of Civil Procedure, 1908 is allowed subject to the payment of Rs.30,000/- as costs to be paid to the defendant-respondents by the plaintiff-petitioner.

Disposed off accordingly. Pending applications, if any, also stand disposed off.

(ALKA SARIN)
JUDGE

27.07.2022
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NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : YES/NO

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