

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 7526 of 2017 (O&M)

Date of Decision: 17.05.2022

Sunita Rani

... Petitioner(s)

Versus

Manjit Singh and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Shiv Kumar, Advocate
for the petitioner(s).

Mr. Kamaldeep Singh Sidhu, Advocate
for the respondent No.1.

Anil Kshetarpal, J.

1. The defendant No.2 (the petitioner herein) questions the correctness of an interlocutory order dated 09.10.2017, passed by the trial Court, while dismissing the application filed by her for permission to amend the written statement.

2. Some facts are required to be noticed. Manjit Singh and Ranjit Singh, both sons of Charanjit Singh, have filed a suit for grant of decree of declaration to the effect that the plaintiffs are the owners to the extent of equal share, being the natural heirs of Charanjit Singh (their father). The defendant No.1-Smt. Amarjit Kuar is their mother. Whereas the defendant No.3-Jaswinder Kaur is their sister. The plaintiffs have also prayed that the transfer deed, executed by their mother in favour of the defendant No.2, being a fraudulent transaction, is liable to be set aside. They have also

prayed for possession by way of partition of the property. All the defendants

filed a joint written statement including the defendant No.2 while asserting that the defendant No.1-Smt. Amarjit Kaur had sold the property in favour of the defendant No.2 vide a registered sale deed for a valuable sale consideration. The relevant assertions, made in para 4 of the preliminary objections of the written statement, are extracted as under:-

“4. That the plaintiffs have not come to this Hon'ble Court with clean hands and have stated totally false and baseless facts and have concealed the real facts from this Hon'ble Court. The real facts are that the plaintiffs are sons of the defendant No.1. Both the plaintiffs are addicted to bad vices. They never maintained their parents. So that Charanjit Singh father of the plaintiffs gave his house No. 171/B to his wife Amarjit Kaur (defendant No.1). The plaintiffs did not mend their ways and no good sense prevail upon them. Even after the death of their father, both the plaintiffs left the house and started living separately and they got married with girls out of cast. Both the plaintiffs are drunkard persons and habitual of bad vices. They are drugs addicted and also sell poppy husk and their contraband. The defendant No.1 tried to make understand them, but all in vain. The defendant No.1 is an old lady and she is unable to maintain herself and plaintiffs do not maintain their old aged mother i.e. defendant No.1. So the defendant No.1 disinherited both the plaintiffs from her movable and immovable properties and the defendant No.1 got published a publication in classified column in News paper Punjabi Tribune

on 18th March 2004 and also in Desh Sewak on 18th March 2008 to this effect. The Photostat copies of the publication are attached herewith.

The plaintiffs and their wives never treated the defendant No.1 with normal behaviour. Plaintiff Manjit Singh alias Dharma kidnapped Pawandeep Kaur d/o Gurnam Singh, resident of Street No. 22, Dogar Basti, Faridkot. Wives of both the plaintiffs said that if the plaintiffs ask for her maintenance of the defendant No.1 and give food to her, then they will go back to their parental homes. Both the plaintiffs said to the defendant No.1, if she will talk more than, then they will kill the defendant No.1 and hide her dead body under the floor and nobody will see that where is the defendant No.1. Whenever the defendant No.1 feels ill and asked the plaintiffs for her treatment or to bring any medicine, then the plaintiffs did not pay any head to the defendant No.1 and only is the defendant No.3, who is daughter of defendant No.1 and she used to take care and maintain her mother i.e. defendant No.1.

It is pertinent to mention here that both the plaintiffs kidnapped their wives against the wishes and will of their mother i.e. defendant No.1. They are addicted to smack and sell the same and used to kidnapped girls and rape them. This is their bad habit. Because defendant No.1 is alone, so they/to kill her, so many times by way of giving poison.

That there is no anybody to maintain the defendant No.1

and there is no any other source for her to maintain herself. So only this was the house which she sold to defendant No.2 in presume of mind and good senses. Plaintiffs had filed an application to P.S.Kotwali where the police authorities made efforts to make understand the plaintiffs and to compromise with the defendant No.1, but all in vain.

It is further submitted that the defendant No.1 has sold the house in question to the defendant No.2, vide the registered sale deed for a valuable consideration. Out of the sale consideration, some amount has been deposited by the defendant No.1 in the bank for her maintenance and with some amount she has purchased one house for her residence. The defendant No.1 is maintaining herself by way of consuming the interest of the deposited amount. In this way the suit of the plaintiffs is false and is liable to be dismissed”.

5. During the pendency of the suit, Smt.Amarjit Kaur died. After her death, the defendant No.2, claiming to be a bonafide purchaser, has filed an application for permission to amend the written statement, which has been dismissed by the trial Court on the ground that she entered appearance on 10.07.2014. Whereas the application for permission to amend the written statement has been filed after a period of more than two years.

6. On reading of the proposed amendments, it is evident that the petitioner wants to take a plea of bonafide purchaser as well as the suit being bad for partial partition.

7. As per the Order VI Rule 2 CPC, every pleading shall contain,

and contain only, a statement in a concise form of the material facts on which the party relies for his claim or defence. It is specifically provided that the evidence is not required to be pleaded.

8. In the present case, while filing a joint written statement, the defendant No.2 has already pleaded the ingredients of bonafide purchaser. She is now required to prove that fact. Furthermore, the trial has already commenced and in view of proviso to Order VI Rule 17 CPC, the permission to amend the pleadings cannot be granted, unless she fulfills the requirements of the proviso to Order VI Rule 17 CPC.

9. In the considered view of the Court, once the petitioner can be permitted to lead evidence to prove her pleadings, there is no requirement to amend the written statement.

10. With the observations made above, the present revision petition is disposed of.

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

(Anil Kshetarpal)
Judge

May 17, 2022
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No