

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

125

CR-461-2022

Date of decision: 25.05.2022

Jagrup Singh @ Roop Singh

.....Petitioner

Versus

Surjeet Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

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

MANJARI NEHRU KAUL, J. (ORAL)

The instant petition has been filed under Article 227 of the Constitution of India for setting aside of the impugned order dated 06.12.2021 (Annexure P-3) passed by learned Civil Judge (Sr. Divn.), Barnala vide which applications filed by the petitioner/plaintiff under Order 1 Rule 10 and Order 6 Rule 17 of the CPC for impleading Shinderpal Kaur @ Manjit Kaur as proforma defendant No.7 and for amendment of the plaint respectively were dismissed.

Learned counsel submits that the trial Court failed to appreciate that the amendment in the plaint was necessary for the just adjudication of the case and it would not have changed the nature of the suit in any manner. He further submits that in case Shinderpal Kaur @ Manjit Kaur was not impleaded as proforma defendant No.7 in the suit pending before the trial Court, it would lead to multiplicity of proceedings.

I have heard learned counsel and perused the relevant material on record.

Admittedly, both the applications under Order 6 Rule 17 and Order 1 Rule 10 of the CPC were moved by the petitioner at the fag end of the trial i.e. after the conclusion of the arguments of the parties.

It would be relevant to point out here that the respondents/defendants took a specific objection in their written statements qua the maintainability of the suit in the absence of relief of possession and also that the suit was bad for non-joinder of necessary parties.

The aforesaid facts and objections of the defendants taken in their written statements, were also put to the petitioner during his cross-examination. Thus, he was well aware about these facts at the initial stage of the trial. He, however, chose to sit quiet and moved both the applications under Order 6 Rule 17 and Order 1 Rule 10 of the CPC only when the trial was about to conclude.

The learned counsel has failed to bring to the notice of this Court any such circumstance on record which would even remotely suggest that despite the petitioner acting with due diligence, he was unable to file the above-mentioned applications, under Order 6 Rule 17 and Order 1 Rule 10 of the CPC. It cannot be overemphasized that law helps the vigilant not the dormant (*vigilantibus non dormientibus jura subveniunt*).

No doubt, the Courts must lean in favour of effective adjudication of a case on merits but at the same time they must be alive to the prejudice which might be caused to the other party who may be pursuing its cause diligently.

As an upshot to the above, this Court is not inclined to

invoke its revisional jurisdiction. Accordingly, the instant revision petition being devoid of merit is dismissed in *limine*.

25.05.2022

(MANJARI NEHRU KAUL)

Vinay

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No