

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

CR-1192-2022 (O&M)

Date of decision:12.12.2022

Jugraj Singh

....Petitioner

Versus

Baljit Kaur and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Gagandeep Singh Sirphikhi, Advocate for the petitioner
Mr. Manut Arya, Advocate for the respondents

ANIL KSHETARPAL, J (Oral)

The petitioner's application for permission to amend the
plaint, in order to add the following assertions, at the end of para 5 of the
plaint, has been dismissed by the Civil Judge (Junior Division):-

*“Needless to add that previously
Parkash Singh and Prabhjot Singh filed a civil suit i.e
suit for declaration regarding the whole joint khata
and challenged the illegal mutation which was
entered on the basis of false and forged alleged
agreement of partition. The said alleged mutation and
alleged partition was not accept by the plaintiff and
the said alleged partition was rejected by the Civil
court vide judgment and decree dated 3.3.2012
passed by the court of Smt. Hargurjit Kaur, Civil
Judge, Batala; hence the khata of the said land is still
joint between the original co-sharers. The said
litigation is not relevant for the decision of the present
suit. In the said litigation, the present plaintiff was
exparte.”*

In substance, the petitioner's suit for grant of decree of
permanent injunction, restraining the defendants from interfering into his
peaceful possession is pending in the trial court. The suit is with respect
to three different properties specified as Schedules A, B and C in the

plaint. While filing the suit, the plaintiff claims to be in exclusive possession of property mentioned in Schedule A and as co-sharer/co-owner in possession of the properties specified in Schedules B and C. In order to incorporate the fact with regard to previous litigation, the application was filed, which was dismissed by the trial court, while observing that if the plaint is permitted to be amended, then it would mean permitting the plaintiff to change his stand with regard to his possession over the Schedule A of the property.

From a bare look at the reading of the proposed amendment, it is evident that the plaintiff only wants to refer to the previous litigation between the parties. Merely referring to the previous litigation in the present plaint does not amount to change of stand of the plaintiff. The suit is still at the preliminary stage. Hence, the order under challenge, being unsustainable, is set aside. The plaintiff is permitted to amend the plaint.

The revision petition stands allowed.

All the pending miscellaneous applications, if any, are also disposed of.

12.12.2022

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE