

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

**CR No.673 of 2022**

**Date of Decision: 25.03.2022**

Naib Singh and another

.....Revisionists-petitioners.

Versus

Raja Ram alias Raju and others

.....Respondents.

**CORAM:    *HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA***

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Present:-     Mr. Vijay Lath, Advocate  
                    for the revisionists-petitioners.

**MEENAKSHI I. MEHTA, J.**

By way of the instant revision petition, the petitioners (here-in-after to be referred to as 'the plaintiffs') have laid challenge to the order dated 04.01.2022 passed by the Civil Judge (Junior Division), Rupnagar (for short 'the trial Court') whereby the application as moved by them under Order 6 Rule 17 and Order 1 Rule 10 (2) CPC for seeking amendment in the plaint and also for impleading Sarabjit Singh as defendant in the Civil Suit, has been dismissed.

Shorn and short of unnecessary details, the facts, leading to the filing of the present revision petition, are that the plaintiffs filed a Civil Suit against the respondents (here-in-after to be referred to as 'the defendants') for seeking a decree for possession of the suit land by way of specific performance of the agreement dated 29.08.2005 while averring

that defendants No.1 to 3, through their Attorney, i.e defendant No.4, had executed the said agreement in their (plaintiffs') favour to sell the suit land for the sale consideration of Rs.40,000/- and had agreed to execute the sale-deed accordingly at any time in future. The plaintiffs sent a legal notice to the defendants on 08.06.2015 for the execution of the sale-deed in their favour and they also went to the office of the Registering Authority on 30.06.2015 for this purpose but the defendants did not turn up there. The plaintiffs moved the above-said application averring therein that at the time of filing the Civil Suit, they had handed over the said agreement to sell and other necessary documents to their counsel as engaged earlier but he did not notice the factum of the sale of some land out of the suit land by the defendants in favour of said Sarabjit Singh and therefore, the relief and the necessary pleadings in view of the afore-said fact could not be set-forth in the plaint and Sarabjit Singh, who was a necessary party, could not be impleaded as party in the said Suit. Vide the impugned order, the above-mentioned application has been dismissed.

I have heard learned counsel for the petitioners-plaintiffs in the instant revision petition and have also perused the file thoroughly.

Learned counsel for the plaintiffs contends that the factum of the execution of the sale-deed by the defendants in favour of said Sarabjit Singh in respect of a part of the suit land and the relief for the declaration qua the said sale-deed being illegal, null and void as well as the averments in this regard, could not be incorporated in the original plaint due to the carelessness and inadvertence on the part of the lawyer engaged by the

plaintiffs earlier at the time of filing the said Civil Suit and therefore, the proposed amendment in the plaint as well as the inclusion of said Sarabjit Singh in the array of the defendants in the Civil Suit are necessary for the proper adjudication of the real controversy between the parties and it being so, the impugned order passed by the trial Court is not legally sustainable. To buttress his contentions, he has placed reliance upon **Ragu Thilak D. John Versus S. Rayappan 2001(1) RCR (Civil) 726** and **Abdul Rehman and another Versus Mohd. Ruldu and others 2012(4) RCR (Civil) 481.**

However, the afore-raised contentions are devoid of any merit because in their above-said application, the plaintiffs have taken the plea that the pleadings qua the factum of the execution of the sale-deed by the defendants in favour of said Sarabjit Singh in respect of a part of the suit land as well as of the sanction of the mutation in pursuance thereof, could not be incorporated in the original plaint and the said subsequent vendee could not be impleaded as the defendant initially in the Civil Suit due to the inadvertence/negligence on the part of the lawyer engaged by them at that time. This plea, itself, speaks volumes of the fact that the plaintiffs were well aware of the above-mentioned facts even at the time of filing the Civil Suit.

It is worth-while to mention here that the said sale-deed had been executed by the defendants on 13.11.2014 whereas the photocopy of the above-said application (Annexure P-5) bears the date 30.11.2021 and thus, it is explicit that this application was moved by the plaintiffs more than 07 years after the execution of the said sale-deed and about 6¼ years

after the filing of the Civil Suit on 30.09.2015, i.e the date as mentioned in the photocopy of the plaint (Annexure P-1) whereas the period of limitation as prescribed for challenging the sale-deed, is 03 (three) years. Thus, the averments/pleas/relief, as now proposed to be added in the original plaint and the consequent prayer to implead said Sarabjit Singh as the defendant in the Civil Suit, have clearly become time-barred. Moreover, the said application was, concededly, moved after the commencement of the trial in the Civil Suit and mere afore-discussed plea of the plaintiffs qua the negligence/inadvertence on the part of their counsel, does not suffice at all to show that they themselves had exercised due diligence as envisaged under the proviso appended to Order 6 Rule 17 CPC.

The observations as made by the Apex Court in **Ragu Thilak D. John (supra)** and **Abdul Rehman and another (supra)** are of no avail to the plaintiffs in the present case because the facts and circumstances of the afore-cited cases are distinguishable from those of the instant one. In **Ragu Thilak D. John (supra)**, it was observed that from the perusal of the averments made in Paras No.8(a) to 8(f) of the plaint which were sought to be incorporated by way of amendment, it was evident that the plea that the relief sought by way of amendment was barred by time, was arguable in the circumstances of the case whereas in the present case, as discussed earlier, the plaintiffs do not deny the factum of their being aware of the execution of the afore-mentioned sale-deed in favour of Sarabjit Singh even at the time of filing the Suit. Further, in **Abdul Rehman and another (supra)** also, it was observed that the reliefs claimed by way of proposed amendment

were not barred in law whereas, in the case in hand, the relief sought by way of the proposed amendment, has already become time-barred.

As a sequel to the fore-going discussion, it follows that there is no illegality, infirmity, irregularity or perversity in the impugned order so as to call for any interference by this Court.

Resultantly, the revision petition in hand, being *sans* any merit, stands dismissed.

**March 25, 2022**  
Yag Dutt

**(MEENAKSHI I. MEHTA)**  
**JUDGE**

*Whether speaking/reasoned:* *Yes*

*Whether Reportable:* *Yes*