

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.848 of 2022(O&M)
Date of decision:10.03.2022

Surender

...Petitioner

Versus

Punjab Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rakesh Nehra, Sr. Advocate, with
Mr. Atul Ravish, Advocate
for the petitioner.

ANIL KSHETARPAL, J (Oral)

The hearing of the case is being held through video conferencing on account of restricted functioning of the Courts.

The petitioner is the plaintiff in a suit filed by him for grant of decree of declaration to the effect that the judgment and decree passed in Civil Suit No.4/09.01.1993 (Punjab Singh vs. Raghbir Singh etc.) on 24.11.1998, is a result of forgery and concealment of facts. The suit was instituted on 11.08.2016. The parties have already led their evidence. At that stage, the plaintiff filed an application for permission to amend the plaint in order to add para 5(1)(A) which reads as under:-

“That in the disputed suit, the plaintiff Punjab Singh had mentioned that suit bearing No.210 dated 2.6.1965, that suit was not this suit property, rather the land was different from the land of suit titled as Punjab Singh vs. Raghbir Singh and Punjab Singh etc. concealed that fact from the court and fraud with the court and wrongly mentioned about that suit, they have obtained judgment and decree illegally, which is totally wrong and the same be cancelled.”

The learned trial Court has dismissed the application on the

ground that the plaintiffs cannot be permitted to change the nature of the suit.

The learned senior counsel representing the petitioner admits that the previous judgment and decree dated 10.04.1967, passed in Civil Suit no.210, dated 02.06.1965, has already been produced and proved in evidence.

It is well settled that the pleadings in a suit are required to be restricted to the facts which are stated in a brief manner. The evidence is not required to be pleaded. The plaintiffs want to amend the plaint in order to prove that the suit property in Civil Suit No.210 and Civil Suit No.4, were different.

This is a subject matter of evidence. The petitioner has already been permitted to lead the evidence. Hence, for entirely different reasons, the order passed by the trial Court is upheld.

The learned senior counsel expresses apprehension that the trial court may not permit the petitioner to take up this point in arguments on the ground that such plea is beyond pleadings.

In the considered view of the Court, this Court cannot exercise its supervisory jurisdiction merely on an apprehension.

In the considered view of the Court, the position of law which has already been noticed.

Disposed of.

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

March 10, 2022

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Whether speaking/reasoned

Whether reportable

: Yes/No

: Yes/No

(ANIL KSHETARPAL)
JUDGE