

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 962 of 2022 (O&M)

Date of Decision: 02.09.2022

Karnail Kaur

... Petitioner(s)

Versus

Sohan Singh and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Rohit Sharma, Advocate
for Mr. Lupil gupta, Advocate
for the petitioner(s).

Anil Kshetarpal, J.

1. The petitioner herein is a defendant in a suit filed for declaration to the effect that the father of the plaintiff as well as of defendant No.2 and 3 has been missing since 1995, therefore, he should be declared to have died in law. The plaintiff (respondent No.1 herein) also claims succession on the basis of a registered Will dated 15.04.1991.

2. When the plaintiff had partially led his evidence, the defendant No.2 filed an application under Order VI Rule 17 of the Code of Civil Procedure, 1908 (hereinafter referred to as “CPC”) for permission to amend the written statement in order to take a plea that the property is ancestral Joint Hindu Family property. The application was dismissed by the trial Court as the case was at an advanced stage and the facts to be incorporated by way of amendment were already in her knowledge.

3. Heard the learned counsel representing the petitioner and with

his able assistance, perused the paper-book.

4. The petitioner has filed a detailed and elaborate written statement defending the suit. She was represented by a counsel throughout. As per the proviso to Order VI Rule 17 CPC, the amendment in the pleadings shall not, ordinarily, be allowed after the trial has commenced, unless the party proves due diligence. In the present case, the petitioner has failed to establish the same. The trial Court has already exercised its discretion in the facts of the case, which does not require any interference.

5. Keeping in view the aforesaid facts, no ground is made out to interfere. Hence, the present revision petition is dismissed. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

September 02, 2022
“DK”

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No