

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

122

CR-1076-2022

Date of decision: 28.03.2022

Hardip Kaur

.....Petitioner

Versus

Charan Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. S.P. Soi, Advocate for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

The petitioner-defendant No.1 has filed the instant revision petition under Article 227 of the Constitution of India assailing the order dated 25.02.2022 annexed as Annexure P-7 passed by the learned Additional Civil Judge (Sr. Divn.), Nakodar whereby the application filed under Order 6 Rule 17 of the CPC filed by respondent No.1-plaintiff for amendment of the plaint was allowed.

Learned counsel for the petitioner, while drawing the attention of this Court to the plaint annexed as Annexure P-1 filed by respondent No.1-plaintiff for grant of decree of declaration and permanent injunction of the suit property, submits that the petitioner-defendant No.1 had filed her written statement to the plaint and thereafter on 26.02.2019, the trial Court had also framed issues in the aforesaid civil suit. Thereafter, four opportunities for evidence was given to respondent No.1-plaintiff, however, he failed to adduce any evidence. It was on the fourth date of hearing that respondent No.1-

plaintiff filed an application under Rule 6 Rule 17 of the CPC (Annexure P-5) for amendment of the plaint which was allowed vide impugned order by the Court below even though there was no cogent reason forthcoming as to why the amendment of the plaint was sought. Learned counsel submits that with a malafide intention to harass the petitioner-defendant No.1, totally false averments had been made in the application under Order 6 Rule 17 of the CPC to the effect that she had taken possession of the suit property forcibly in the intervening night of 30.05.2019/31.05.2019 whereas the fact of the matter was that the suit property was previously owned and possessed by her husband and after his death since the petitioner-defendant No.1 was the sole legal heir of her husband, she came into possession of the said suit property as owner. It was submitted that the property of the petitioner-defendant No.1 and respondent No.1-plaintiff, who is her father-in-law, are adjoining to each other and there is a dispute pending between them regarding the laying down of the underground pipes in the said property.

I have heard learned counsel and perused the case file including the impugned order.

The original plaint was instituted by respondent No.1-plaintiff for declaration and permanent injunction qua the suit property. *Inter se* it is a family dispute between the petitioner-defendant No.1 (daughter-in-law) and respondent No.1-plaintiff (father-in-law). Respondent No.1-plaintiff by way of the application under Order 6 Rule 17 read with Section 151 of the CPC sought amendment of the plaint for grant of temporary injunction to restrain his daughter-in-law

i.e. the petitioner-defendant No.1 from interfering in his peaceful and lawful possession of the suit property being *karta* of the coparcenary constituted by respondent No.1-plaintiff and the proforma defendants herein and dispossessing respondent No.1-plaintiff forcibly from the suit land and from alienating the suit property in any manner. A perusal of the impugned order reveals that respondent No.1-plaintiff being *karta* of the coparcenary had sown *hari* crop over the suit land and after harvesting of the crop the land had been lying vacant. On the intervening night of 30.05.2019/31.05.2019 when the petitioner-defendant No.1 tried to forcibly take possession of the suit land, the matter was immediately reported to the police, however, no action could be taken as the matter was admittedly subjudice before the Civil Court. It was in this background that respondent No.1-plaintiff after being dispossessed from the suit land on the intervening night of 30.05.2019/31.05.2019 moved the application under Order 6 Rule 17 of the CPC for amendment in the plaint in the wake of intervening developments and circumstances. The prayer of respondent No.1-plaintiff for possession was already there in the original plaint and it was only by way of amendment in the plaint he was seeking the addition of cause of action which had been necessitated on account of the subsequent events.

This Court, therefore, does not find any merit in the instant revision as prima facie it does come across that respondent No.1-plaintiff was dispossessed from the suit property during pendency of the suit. As per the settled law, the Court must allow all such amendments which may be necessary for the purpose of determining

the real controversy between the parties. The merits of the case cannot be adjudicated upon while deciding an application under Order 6 Rule 17 of the CPC.

Dismissed.

28.03.2022

Vinay

**(MANJARI NEHRU KAUL)
JUDGE**

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