

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

121

CR No.1954 of 2020 (O&M)

Date of Decision: 04.04.2022

Kulwinder Singh

... Petitioner

Versus

Bhagwant Kaur and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Prateek Sodhi, Advocate,
for the petitioner.

Mr. Anupam Bhardwaj, Advocate,
for the respondents.

ANIL KSHETARPAL, J. (Oral)

1. This revision petition has been filed by the defendant in a suit for grant of decree of possession in respect of land measuring 3 kanal 4 marlas.

2. Originally, the plaintiffs claimed relief of possession, on the ground that Smt. Kartar Kaur their mother had bequeathed the property in favour of the plaintiffs.

3. During the pendency of the suit, on an application for permission to amend the plaint, the trial Court has permitted the plaintiffs to incorporate that Smt. Kartar Kaur was infact the grandmother of plaintiffs and their mother Kashmir Kaur was an owner to the extent of half share.

4. Learned counsel representing the petitioner contends that the plaintiffs/respondents failed to prove their due diligence, therefore, as per proviso to Order 6 Rule 17 CPC, the application could not be allowed. He further contends that the entire nature of the suit has been changed.

5. Per contra, the learned counsel representing the plaintiffs/respondents contends that this Court should not exercise its powers

under Article 227 of the Constitution of India particularly when the trial

Court has only allowed the amendment.

6. The Courts have been set up to do substantive justice between the parties. The rules of procedure help the Court in deciding the matters in accordance with law. While deciding the cases, the Courts make an attempt to follow the procedure laid down. However, such procedure cannot be permitted to obstruct the flow of justice. In the present case, the plaintiffs have made an attempt to correct the factual mistakes. Such errors may be on account of legal illiteracy of the plaintiffs.

7. In the considered view of the Court, no prejudice shall be caused to the defendant as he will be granted an opportunity to file his written statement as well as to lead evidence.

8. Furthermore, the plaintiffs have already undertaken in the application that they shall not lead any evidence.

9. In view thereof, the revision petition is disposed of.

10. However, the learned trial Court is requested to provide sufficient opportunities to the defendant to prove his case in accordance with law.

04.04.2022
manju

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No