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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-3729-2019 (O&M)
Date of decision: 01.08.2022

Surjit Kaur

... Petitioner

Vs.

Sat Pal

.. Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Dinesh Kumar, Advocate
for the petitioner.

Mr. Amarbir S. Shergill, Advocate for
Mr. Navjot Singh, Advocate
for the respondent.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for setting aside the order dated 15.05.2019, vide which an application for amendment of the plaint was dismissed by the trial Court.

The observations made by the trial Court in the impugned order read as under: -

“Heard on the application under Order 6 Rule 17 CPC for amendment of plaint, filed by plaintiff. Vide this application the plaintiff has sought the relief to amend the plaint in the heading and in para No.6 qua the fact of construction raised by the defendant during the pendency of the case. The perusal of the

record reveals that the fact regarding the construction of the suit property during the pendency of the case was in the knowledge of the plaintiff as it has come in Ex.P2 i.e. report of the Local Commissioner and as such the plaintiff should have taken the said plea at that time and not now at the fag end of the case when the entire evidence has been led on record. Also no plausible explanation has been given for such long delay for the amendment. The present application have just been filed to delay the proceedings. Moreover, the fact regarding the construction of the suit property during the pendency of the case has come on record in the evidence. As such the application in hand stands dismissed being not maintainable. Findings given above will have no effect on the merits of the case.

On request, the case is adjourned to 17.05.2019 for rebuttal evidence, if any and for arguments.”

Brief facts of the case are that the petitioner-plaintiff filed a suit for possession of the agricultural land as described in the plaint as well as a suit for permanent injunction restraining the defendant not to construct the house in dispute or to change the nature of suit land, in any manner. During pendency of the suit, the petitioner filed an application for amending the head note as well as para No.6 of the plaint to the effect that the defendant has raised construction illegally during pendency of the case and prayed that the same be

incorporated in head note, prayer clause and in para No.6 of the plaint. In the application, the petitioner-plaintiff also made some averments to be incorporated in para No.5 of the plaint, which is duly supported by an affidavit. The said application was declined by the trial Court vide impugned order.

At the time of issuing notice of motion, the petitioner undertook that if the proposed amendment is allowed, he will not lead any fresh evidence and the suit can be decided on the basis of evidence, which is already on record.

Learned counsel for the petitioner submits that in order to make an effective prayer, the proposed amendment is required, as some development took place, after filing of the suit.

Learned counsel for the respondent has, however, opposed the prayer on the ground that the trial Court has recorded a finding that in Ex.P2 i.e. report of the Local Commissioner, it has come that existing construction is prior to filing of the suit.

Be whatsoever, considering the fact that the petitioner undertook not to lead any fresh evidence and in order to avoid further delay in disposal of the case, this petition is allowed and the impugned order is set aside.

The trial Court is directed to grant one effective opportunity to the petitioner-plaintiff to file the amended plaint and thereafter, an opportunity be given to the respondent-defendant to file the amended written statement.

This will, however, be subject to payment of costs of Rs.5,000/- to

the respondent-defendant.

It is made clear that if the amended plaint along with costs is not filed on or before 22.08.2022, this revision petition will be deemed to be dismissed without any further orders.

01.08.2022
vishnu

[ARVIND SINGH SANGWAN]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No