

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

121

CR-3798-2022

Date of decision: 12.09.2022

Prakash Chand

.....Petitioner

Versus

Aditya and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Sunil Kumar Bhardwaj, Advocate
for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

The instant revision petition has been filed under Article 227 of the Constitution of India for setting aside of the impugned order dated 05.08.2022 vide which an application under Order 6 Rule 17 read with Section 151 of the Code of Civil Procedure, 1908 (for short, 'the Code') filed by respondent/defendant No.1 was allowed.

Learned counsel for the petitioner submits that the impugned order suffers from patent illegality and is contrary to the settled principles pertaining to amendment of pleadings. He submits that the Trial Court failed to appreciate that the application under Order 6 Rule 17 of the Code had been filed with an ulterior motive and that too at the fag end of the trial, when the case was posted for arguments. Hence, the Court below erred in allowing the said application. He has submitted that the Court below also failed to appreciate that respondent No.1 had failed to exercise and show due diligence on his part as required by the proviso to Order 6 Rule 17 of the Code, moreso, since the details of the alleged Will were already within his knowledge. It was also further submitted that the Court below had fallen into error by

observing that it was on account of a clerical error that incorrect number of Will i.e. 132/1/1 had been mentioned.

I have heard learned counsel and perused the relevant material on record.

A perusal of the plaint (Annexure P-1) reveals that the petitioner has challenged Will bearing No.132/1/1 executed on 27.11.2000 and the subsequent mutations entered and sanctioned on its basis in favour of the respondents.

The Trial Court, after perusing the copy of the Will as well as the mutation, observed that the revenue authorities had incorrectly mentioned the number of Will as 132/1/1 while entering the mutation and Will. Still further, the petitioner on the basis of incorrect entry in the mutation had also mentioned the number of Will as 132/1/1 instead of 221.

This Court unhesitatingly concurs with the findings of the Trial Court that on account of error in the mutation entries as well as the plaint, the aforementioned fact was not noticed by respondent No.1 while filing his written statement and it being clerical error could be rectified by way of an amendment.

Learned counsel has also failed to satisfy this Court as to how the said amendment would in any manner change the nature of the suit in question or cause any prejudice to the petitioner. Furthermore, the apprehension of the petitioner that under the garb of the amendment, respondent No.1 was trying to get the revenue entries corrected is totally misconceived. It would not be out of context to observe that the proceedings qua correction of mutation entries are

independent of the relief sought in the instant suit and thus the amendment under challenge would have no bearing on them.

As a sequel to the above, the instant revision petition being devoid of merit is dismissed in *limine*.

12.09.2022

(MANJARI NEHRU KAUL)
JUDGE

Vinay

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