

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

CR No.3861 of 2022

Date of decision: 14.09.2022

Samar Singh and another

..... Petitioners

versus

Liladevi and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Jaivir Yadav, Senior Advocate with
Mr. Gourav Jain, Advocate
for the petitioners.

TRIBHUVAN DAHIYA J.

This revision petition under Article 227 of the Constitution of India has been filed for setting aside the order dated 22.03.2022 (Annexure P-1) passed by the trial Court dismissing the petitioners-plaintiffs' application under Order 6 Rule 17 CPC for amendment of the plaint.

2. The facts of the case are, the petitioners-plaintiffs filed a suit for permanent injunction regarding the suit land comprised in *Khewat* 211, *Khatoni* No.281, *Kitta* 18 area measuring 71 *Kanal* 13 *Marla*, vide *Jamabandi* 2012-13 and *Mutation* No.1735 and 1736 situated in village Sundrah, Tehsil Kanina and District Mahendergarh, comprised of *Rectangle* and *Killa* No.59//1/1 (2-19) area measuring 02

Kanal 19 Marla. The written statement on behalf of respondents-defendants was filed, wherein it was also mentioned that land in *Killa* No.50//22/7 was under the ownership and possession since consolidation. Petitioners-plaintiffs did not dispute the fact by filing replication to the written statement.

4. After framing of issues, trial of the suit commenced, and the petitioners-plaintiffs examined three of their witnesses, who deposed on oath regarding the suit property. At this stage, the petitioners-plaintiffs moved an application dated 14.04.2018 for amendment of the plaint under Order 6 Rule 17 CPC, claiming that the land comprised in *Killa* No.50//22/7 was inadvertently left to be mentioned in the plaint, and they should be allowed to carry out the amendment.

5. While dismissing the application for amendment of plaint, by order dated 22.03.2022, the trial Court observed that there was nothing on the record or in the pleadings which could establish that the petitioners-plaintiffs were prevented from moving the application for amendment despite due diligence. It was further observed that the amendment being sought after commencement of trial, i.e., mentioning of *Killa* No.50//22/7 would lead to *denovo* trial of the case. It is because in the written statement filed by the respondents-defendants, this *killa* number was specifically claimed to be in their possession and ownership since consolidation, and the fact was not denied by the plaintiff at that stage.

6. Now, when the trial is going on and the plaintiffs' have led evidence by examining three witnesses, this amendment application cannot be allowed. The petitioners-plaintiffs have not been able to establish that despite due diligence, they were prevented from moving the application for amendment earlier. In such a situation, the proviso to Order 6 Rule 17 CPC effectively bars any such amendment after commencement of trial. Allowing the application at this stage would cause injustice and prejudice to the respondents-defendants.

7. The well reasoned order of the trial Court does not suffer from any infirmity or error of law.

8. Dismissed.

14.09.2022

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(TRIBHUVAN DAHIYA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No