

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

111

**CR No.5237 of 2022 (O&M)
Date of Decision: 16.11.2022**

Amarjit Kaur and another

...Petitioners

Versus

Lakhbir Singh and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present :- Mr. Abhimanyu Kalsy, Advocate
for the petitioners.

MEENAKSHI I. MEHTA, J. (Oral)

The petitioners-plaintiffs (for short 'the plaintiffs') herein assail the order dated 16.08.2022 (Annexure P-16) passed by learned Civil Judge (Junior Division), Ludhiana (for short 'the trial Court') whereby the application (Annexure P-14) moved by them under Order 6 Rule 17 read with Section 151 CPC for seeking amendment in the plaint, has been dismissed.

2. I have heard learned counsel for the plaintiffs, at the preliminary stage, in the present revision petition and have also perused the file carefully.

3. Learned counsel for the plaintiffs contends that inadvertently, the factum qua defendant No.1 having fraudulently got the sale-deed in question executed by plaintiff No.1 on the pretext of raising the loan, could not be averred in the plaint and now, by way of the proposed amendment, the plaintiffs intend to get the same incorporated therein and the said amendment, if allowed, would not change the nature of the suit and the plaintiffs would also not lead any fresh evidence in respect of the amended pleadings.

4. However, I do not find the afore-raised contentions to be tenable

because the plaintiffs filed the Civil Suit against the respondents-defendants (for short 'the defendants') for seeking decree for the declaration regarding the said sale-deed being illegal, null and void. The issues were framed therein on 01.10.2018. Then, the plaintiffs concluded their evidence on 15.01.2020 and even the defendants had also closed their oral evidence on 02.12.2021 and thereafter, the application Annexure P-14 had been moved by the plaintiffs much after the commencement of the trial and rather, at its fag end.

5. Further, the facts, now intended to be incorporated in the plaint by way of the proposed amendment, were well within the knowledge of the plaintiffs at the time of filing the said Civil Suit but however, throughout in their said application, they (plaintiffs) have not come forward with any fair, candid and plausible explanation for the omission on their part to plead about the same in the plaint nor they have averred therein that this omission had occurred despite their having exercised due diligence at the time of filing the Civil Suit and it being so, it is quite explicit that the proposed amendment has rightly been declined by the trial Court.

6. As a sequel to the fore-going discussion, it follows that the impugned order does not suffer from any illegality, infirmity, irregularity or perversity so as to call for any interference by this Court. Resultantly, the present revision petition, being sans any merit, stands dismissed.

16.11.2022
neetu

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: *Yes*
Whether Reportable: *No*