

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

111

**CR No.5268 of 2022**

**Date of Decision: 17.11.2022**

Nidhi Kapoor

...Petitioner

Versus

Nipun Thapar and others

...Respondents

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

Present :- Mr. Aditya Gautam, Advocate  
for the petitioner.

**MEENAKSHI I. MEHTA, J. (Oral)**

By way of the instant petition, the petitioner-plaintiff (for short 'the plaintiff') has laid challenge to the order dated 11.10.2022 (Annexure P-1) passed by learned Civil Judge (Senior Division), Kurukshetra (for short 'the trial Court'), whereby the application moved by her 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 petitioner-plaintiff, at the preliminary stage, in the present revision petition and have also perused the file carefully.

3. Learned counsel for the plaintiff contends that the plaintiff has filed the Civil Suit against the respondents-defendants (for short 'the defendants') for seeking the decree for possession, by way of the partition of one residential house and one shop, while averring that her father was

the owner thereof but however, while leading his evidence, defendant No.1, who is her brother, deposed that the said shop was not owned by his father and rather, the same belonged to their mother and it being so, defendant No.2, who is her step-mother, could not have inherited the same after the death of her (plaintiff's) mother but the trial Court has wrongly dismissed the application moved by her for incorporating the above-said facts in the plaint by way of the amendment therein whereas the proposed amendment would be necessary for the proper adjudication of the Civil Suit.

4. However, I do not find the afore-raised contentions to be tenable at all because it was entirely for the plaintiff to ascertain and verify all the facts, as intended to be pleaded in the plaint for claiming the relief as sought by her therein, before filing the Suit but from the above-discussed facts, it is explicit that she did not exercise the due diligence even to ascertain as to who was the owner of the said shop. Moreover, the trial Court is, presently, seized of the matter and is, therefore, supposed to look into and consider this aspect at the appropriate stage during the course of the trial. To cap it all, the afore-referred Civil Suit was filed in the year 2016 whereas the plaintiff is stated to have moved the application under reference in February, 2022, i.e after about six (06) years, when the trial has reached the stage of recording the evidence of the defendants. It being so, it becomes explicit that the trial Court has rightly dismissed the above-said application.

5. 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 warrant any interference by this Court. Resultantly, the present revision petition, being *sans* any merit, stands dismissed.

**17.11.2022**  
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**(MEENAKSHI I. MEHTA)**  
**JUDGE**

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| <i>Whether speaking/reasoned:</i> | <i>Yes</i> |
| <i>Whether Reportable:</i>        | <i>No</i>  |