

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

CR-5779-2022(O&M)

Date of decision:-8.12.2022

Naresh Kumari @ Neha Sharma

...Petitioner

Versus

Mamta Devi

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Arn timerKumar, Advocate
for the petitioner.

H.S. MADAAN, J.

1. In a suit for grant of permanent injunction filed by plaintiff Mamta Devi against defendant Neha Sharma pending in the Court of Civil Judge (Jr.Divn.), Ludhiana, the plaintiff filed an application under Order 6 Rule 17 CPC for amendment of plaint so as to seek a decree for declaration that she is owner of Flat No.459-462-LIG situated at Jamalpur, Tehsil and District Ludhiana and further craving for a decree for possession of that flat contending that the proposed amendment is necessary for just and proper adjudication of the case and to determine the question of real controversy between the parties to avoid the multiplicity of litigation between the parties.

2. Though the application was contested by the defendant raising various legal pleas including that the application is not maintainable being legally defective and abuse of process of law

contending that application is not permissible, therefore, it be dismissed. However, the trial Court of Civil Judge (Jr.Divn.), Ludhiana vide order dated 1.11.2022 had allowed the application leaving the defendant aggrieved and she has challenged the said order by way of filing the present revision petition.

3. I have heard learned counsel for the petitioner besides going through the record.

4. Order 6 Rule 17 CPC which deals with the subject of amendment of pleadings provides that the Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties.

5. The trial Court has observed that in case the amendment was not allowed, then the plaintiff would file a fresh suit leading to multiplicity of litigation between the parties and the dispute between the parties will not be set at rest permanently. With regard to delay in filing of the application, the Court has observed that defendant can be compensated by way of imposition of cost, therefore, the application was allowed, subject to payment of costs of Rs.2,500/- by the plaintiff to the defendant.

6. I do not find anything wrong with the approach of the trial Court, which has been to adjudicate the total controversy between the parties in the present litigation, rather than letting the plaintiff file further suit for redressal of her grievances. As regards the judgments referred to by learned counsel for the revisionist i.e. **M. Revanna Versus**

Anjanamma (Dead) bny LRs & Ors.2019(2) RCR(Civil)207Tarsem Lal and others Versus Baljit Kaur and others, 2022(2) PLR 630 and Binder Kumar Versus Jagjit Singh Kalara and Ors., 2020(1) RCR(Civil)828,

those do not find application to the present case due to different facts and circumstances and the context in which such observations had been made.

Here the trial Court has exercised its discretion in a proper and judicious manner without there being any element of arbitrariness.

7. I find that no fault can be found with the order passed by the trial Court and no reason is there to interfere with the impugned order, which is detailed and well reasoned not suffering from any infirmity and illegality.

8. Thus, finding no merit in the civil revision petition, the same stands dismissed.

8.12.2022
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No