

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

102+201

CM No.4958-CII of 2022 in/and
CR No.1398 of 2014 (O&M)
Date of Decision: 06.02.2023

Sukhbir

....Petitioner

Versus

Jasodi Nandan and others

....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Adarsh Jain, Advocate for the petitioner.

Mr. Ajay Ghangas, Advocate
for respondent No.6 (v).

Harsimran Singh Sethi, J. (Oral)

CM No.4958-CII of 2022

The present application has been filed for placing on record
the amended memo of parties.

Keeping in view the facts mentioned in the application, the
same is allowed with all just exceptions.

Amended memo of parties is taken on record.

CR No.1398 of 2014

The present Civil Revision has been filed challenging the

plaintiff with the prayer to amend the suit in view of certain facts which had come into existence, subsequent to the filing of the suit needed to be incorporated for proper adjudication of the controversy raised before the trial Court, was dismissed.

Learned counsel for the petitioner submits that the suit filed by the petitioner-plaintiff in January, 2008 seeking permanent injunction that he is owner in possession of the land in question and entries made in the revenue record were wrong. Learned counsel for the petitioner further submits that the issues were framed on 01.03.2013, which were further amended on 10.12.2013 and no evidence had been led so far by the parties concerned.

Learned counsel for the petitioner argues that after the filing of the suit, according to the petitioner-plaintiff, the relinquishment deed of the lease was signed by the defendants but the said deed was not carried to the logical end, which fact needs to be averred and proved as the same is necessary for the proper adjudication of the claim/issues framed in the present civil suit, whereas the trial Court has rejected the application filed by the petitioner-plaintiff seeking amendment of the plaint so as incorporate the said facts which had come into existence after the filing of the suit vide order dated 19.02.2014, hence the said impugned order is liable to be set aside with the further prayer that the application filed by the petitioner-plaintiff seeking amendment of the plaint may be allowed and the petitioner is ready to compensate the respondents for the delay, if any caused.

Learned counsel for the respondent submits that the facts

which have been recorded herein before clearly show that the contradictory pleas are being taken by the petitioner-plaintiff in order to amend the plaint. Learned counsel for the respondent argues that on one hand the petitioner-plaintiff is claiming the possession of the land in question and on the other hand, he is also seeking to incorporate of fact that during the pendency of the Civil Suit, there was a relinquishment deed of the possession by the defendants, which contradictory pleas cannot be allowed.

I have heard learned counsel for the parties and have gone through the record of the case with their able assistance.

The facts which are sought to be brought on record by the amendment of the plaint, are alleged to have occurred during the pendency of the Civil suit. Once the said facts relate to the same property for which the suit is pending, especially in view of the fact that the evidence is yet to be recorded, no prejudice will be caused to the parties concerned in case the said amendment is allowed so as to adjudicate the claim of the parties concerned by taking into consideration all the relevant facts, which had come into existence.

Keeping in view the above, order of the trial Court dated 19.02.2014 is set aside and the application seeking the amendment of the plaint is allowed. The trial Court is directed to take amended plaint on record with liberty to the defendants to file appropriate reply to the said amended plaint and thereafter the trial Court is directed to proceed with the suit in accordance with law.

However, as the amendment sought has delayed the

proceedings for which the prejudice is being caused to the respondents-
defendants, they will be entitled for costs of ₹10,000/- and the costs be
paid to the respondents-defendants on the next date of hearing before the
trial Court.

February 06, 2023
jt

(HARSIMRAN SINGH SETHI)
JUDGE

Whether reasoned/speaking? *Yes/No*
Whether reportable? *Yes/No*