

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

CM-8650-CII-2023 in/and

CR-1276-2017

Date of Decision: 15.05.2023

Labh Kaur (Since deceased) through LRs

...Petitioner

Versus

Krishan Chand and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. S.S. Dinarpur, Advocate with
Mr. Arvind Singh, Advocate
for the petitioner.

Mr. G.C. Shahpuri, Advocate
for respondent No.1.

HARSIMRAN SINGH SETHI, J. (Oral)

CM-8650-CII-2023

The present application has been filed for recalling the order dated 20.04.2023 vide which the civil revision was dismissed for non-prosecution.

Notice of the application to the learned counsel opposite.

Mr. G.C. Shahpuri, accepts notice on behalf of the respondent No.1.

Learned counsel for respondent No.1 raises no objection for the grant of prayer raised in the present application.

Keeping in view the averments made in the application which are duly supported by an affidavit, coupled with the fact that

learned counsel for respondent No.1 has not opposed the prayer as made in the present application, the order dated 20.04.2023 is recalled and the civil revision is restored to its original number.

On the request of the learned counsel for the parties, the civil revision is taken up for hearing today itself.

CR-1276-2017

In the present civil revision petition challenge is to the order dated 09.12.2016 (Annexure P-8), vide which the application filed by the respondent-plaintiff for amendment of the suit so as to incorporate the number of the stamp paper on which the agreement to sell dated 03.02.2011 was written, has been allowed.

Learned counsel for the petitioner argues that by this amendment a new document has been brought on record and that too after the limitation period with regard to the same has already expired. Hence, the amendment allowed by the impugned order, is liable to be set aside.

Learned counsel for the respondent/plaintiff, on the other hand, submits that in the suit the prayer is for specific performance of the agreement to sell dated 03.02.2011. The prayer or the nature of the suit will not change even after the said amendment as the only amendment sought is to bring on record the stamp paper numbers on which the agreement to sell in question was written, so as to avoid any confusion and for the correct appreciation for the facts. Hence, the claim that an agreement to sell is being challenged after the expiry of the limitation, is incorrect.

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

In the present petition, the prayer of the petitioner is that the amendment allowed by the trial Court by passing the impugned order amounts to challenge the agreement to sell dated 03.02.2011. The said contention is not born out of the facts. Neither in the application nor in the impugned order, any fresh agreement is being allowed to be challenged by the amendment of the prayer there is no challenge to the validity of any agreement to sell. Only amendment sought is in the pleading where, it has already been mentioned that there was an agreement to sell between the parties dated 03.02.2011 and in order to avoid any confusion, only the number of stamp paper on which the said agreement to sell dated 03.02.2011 was reduced in writing, is sought to be brought on record. The trial Court has also noticed in the impugned order that the said amendment was not necessary for the reason that said the amendment is only to elaborate the pleadings of the suit which otherwise would have been admissible while leading the evidence. That being so, the assertion that any new document is being challenged after the expiry of limitation, as has been contended by the learned counsel for the petitioner, is incorrect and cannot be accepted.

Even otherwise, after the amendment is allowed, in case there is any objection qua the limitation, or that a document is sought to be challenged after limitation period, the petitioner will be free to raise all such objections for the consideration of the Court at the appropriate time and stage.

In the facts and circumstances of the present case, no ground is made out for interference by this Court.

Dismissed.

15.05.2023

ps-I

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No