

2023:PHHC:149061

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-275-2020 (O&M)
Date of Decision: November 22, 2023

Paramjit Kaur

...Petitioner

Versus

Charanjit Singh and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Rakesh Gupta, Advocate
for the petitioner.

Mr.Harsh Aggarwal, Advocate
for respondent No.2.

ARCHANA PURI, J.

Through the present petition under Article 227 of the Constitution of India, the petitioner has invoked the jurisdiction of this Court to challenge the order dated 30.11.2019 (Annexure P-1) passed by learned Court below, whereby, an application under Order 6 Rule 17 CPC, filed by the petitioner (being defendant No.2 before the Court below), was dismissed.

The essential facts, as culled from the paperbook are as follows:-

That, initially, Ajit Singh-plaintiff (who is respondent No.2 before this Court) had filed a suit against defendants Charanjit Singh (respondent No.1

in this petition) and Paramjit Kaur-present petitioner, thereby, seeking joint possession of the land measuring 22K-10-1/4, by way of specific performance of agreement dated 13.05.2013, whereby, defendant No.1 (Charanjit Singh), had agreed to sell the suit land, in favour of the plaintiff and also to direct defendant No.2(Paramjit Kaur) to ignore the sale deed dated 24.07.2015 and join defendant No.1 to execute and register the sale deed, in favour of the plaintiff. In the alternative, suit for recovery of Rs.50 lakh, as earnest money, was also sought, inclusive of the damages.

During the pendency of the suit, Paramjit Kaur had filed an application, thereby, asserting that inadvertently, she could not take the legal objection that agreement dated 13.05.2013, propounded by the plaintiff, stands materially altered and thus, no relief can be granted to the plaintiff on the basis of this materially altered agreement to sell and further also, that the suit has been filed by the plaintiff, in collusion with defendant No.1 and deserves dismissal. Furthermore, it was also asserted that aforesaid legal objection are essential to be taken by defendant No.2 (petitioner), in the written statement, for just decision of the case and for the same, not much evidence is to be adduced.

However, respondent No.2-Ajit Singh (plaintiff before Court below) had filed reply and resisted the claim for amendment of the written statement. It is stated in the reply that Paramjit Kaur-defendant No.2 was having knowledge regarding agreement dated 13.05.2013 and that is the reason the sale deed could not be executed, even after, it was scribed. The plaintiff himself objected to the execution and registration of the sale

deed, in presence of the parties, in the office of Joint Sub Registrar, Sidhwan Bet. Now, by way of seeking amendment of the written statement, defendant No.2-petitioner Paramjit Kaur intends to fill the lacuna, in the evidence of the defendants, vide which, defendant No.1-Charanjit Singh had admitted the execution of the agreement, in question. Rather, defendant No.2 alleged that the agreement was never executed by defendant No.1, in favour of the plaintiff. Similarly, defendant No.1 admitted to have received earnest money to the tune of Rs.25 lakh, whereas, defendant No.2-Paramjit Kaur alleged that no such transaction took place, when both the parties were present before the office of Joint Sub Registrar, Sidhwan Bet. It was in knowledge of both the parties that the agreement was duly executed and amount of Rs.25 lakh had already been paid to defendant No.1.

After hearing learned counsel for the parties, vide impugned order dated 30.11.2019, the application under Order 6 Rule 17 CPC was dismissed.

Feeling aggrieved by the aforesaid order, present revision petition has been filed by the petitioner-defendant No.2.

Learned counsel for the parties heard.

It has been observed by the Court below that allowing of the application shall cause delay on the disposal of the case, as the application has been filed, at the fag end of the case. However, delay in itself may not be crucial on an application for amendment in the written statement, be it for introduction of new fact or for explanation or clarification of an admission or for taking alternative position. However, the nature, character of the

amendment and other circumstances, have to be referred to, which are relevant, while considering the delay and its consequence on the application for amendment.

In the case in hand, agreement dated 13.05.2013 was between plaintiff and defendant No.1-Charanjit Singh. It is pertinent mention that in the application itself, it has been stated by Paramjit Kaur that inadvertently, legal objections (as now intended to be introduced in the written statement) could not be taken.

So far as agreement dated 13.05.2013 is concerned, the plaintiff is asserting his right on the basis of this agreement and same was executed between plaintiff and defendant No.1. Now, it is submitted by the present petitioner that the same stands materially altered. What is the nature of the alteration made, relating to the same, nothing as such, has come on record and an attempt is made to assert about collusion to be there between the plaintiff and defendant No.1.

In these circumstances, when petitioner (defendant No.2 before Court below) had taken a specific plea of herself being bonafide purchaser, then, she cannot take the plea of alteration of the agreement and it is at the fag end, she has filed the application and nothing as such, what is the alteration, on the basis whereof, amendment is sought, had been asserted by her, in the application. Inadvertence is no ground for allowing the application for amendment of the written statement, more particularly, when the evidence has already been recorded.

In the light of the aforesaid observations, the application, ought

to have been dismissed and the impugned order is hereby upheld. Hence, the revision petition sans merit and is hereby dismissed.

November 22, 2023
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes/No