

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

CR-331-2023(O&M)

Date of decision:-24.1.2023

Ranbir Singh

...Petitioner

Versus

Virender Singh and others

...Respondents

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

Present: Mr.Chanderhas Yadav, Advocate
for the petitioner.

H.S. MADAAN, J.

1. Under challenge in this revision petition is order dated 6.1.2023 passed by Additional Civil Judge(Sr.Divn.), Kharkhoda, District Sonapat vide which an application under Order 6 Rule 17 CPC filed by the plaintiff was dismissed.

2. Briefly stated, facts of the case are that during the pendency of the civil suit for declaration and permanent injunction filed by the plaintiff Ranbir Singh against defendants Virender Singh and others, he had moved an application for amendment of the plaint submitting that at the time of filing the present suit, he had apprised his counsel of all the facts but his counsel did not describe those in the plaint properly. Now the plaintiff wants to insert name of his mother in title of the suit and to

correct paras No.1 to 4 and 6 of the plaint as well as the prayer clause. The plaintiff also sought to insert the pedigree table in the suit as well. According to him, these amendments are necessary to decide the present controversy and shall not change the nature of the suit.

3. The application was resisted by the defendants contending that the same is not maintainable and is time barred; the plaintiff had every knowledge regarding the revenue record at the time of filing of the suit and he has failed to show any cogent reason as to why the person proposed to be brought on record as a defendant is necessary to be inserted in the title of the suit. According to the defendants, the plaintiff had availed of numerous opportunities for leading evidence and the application has been filed at a belated stage when the trial has commenced; the proposed amendment will completely change the nature of the suit because the plaintiff wants to introduce a new case by way of amendment and if the amendment is allowed then the entire case will be re-opened. The defendants sought dismissal of the application.

4. After hearing arguments, learned trial Court dismissed the application vide the impugned order leaving the plaintiff aggrieved and he has approached this Court by way of filing the present revision petition.

5. I have heard learned counsel for the petitioner besides going through the record and I find that there is no merit in the revision petition.

6. The proviso to Order 6 Rule 17 CPC clearly provides that '*no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the*

commencement of trial'.

7. In this case, the plaintiff has failed to show as to how despite exercise of due diligence, he could not incorporate those facts in the plaint originally drafted. He has tried to pass on the blame to his earlier counsel but that does not come out to be plausible and convincing. Even otherwise, the plaintiff has failed to establish as to how the proposed amendment is necessary for determining the real question of controversy between the parties. The plaint cannot be got amended by the plaintiff at his whims and fancies at any stage when he feels like. Therefore, the application was rightly declined by the trial Court. The order passed in that regard is quite detailed and well reasoned and it does not suffer from any illegality or infirmity. No reason is there to interfere with it by exercising revisional jurisdiction.

8. Finding no merit in the revision petition, the same stands dismissed.

Since the main revision petition has been dismissed, the miscellaneous application(s), if any, stand disposed of accordingly.

24.1.2023
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No