

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-416-2019 (O&M)

Date of decision : 19.05.2023

Om Parkash Walia (since deceased) through LR ... Petitioner(s)

Versus

Daljit Kaur and Ors. ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Navjot Singh, Advocate for the petitioner.

Mr. Mandeep Singh Sachdev, Advocate
for respondent Nos.1 and 2.

ALKA SARIN, J. (ORAL)

1. The present revision petition has been filed under Article 227 of the Constitution of India challenging the order dated 08.12.2018 whereby the application filed for amendment of the plaint under Order 6 Rule 17 CPC has been dismissed.

2. The brief facts relevant to the present *lis* are that the plaintiff-petitioner herein filed a suit for possession of portion measuring 13 ½ marlas out of 1 kanal 7 marlas 28 Sq. Ft. bearing Plot No.77, Hargobind Nagar, Near Kalia Colony, Near G.T. Road Bye-pass, Jalandhar comprised in Khasra Nos.15583 and 15586 stated to have been shown and marked as CDEF in the site plan attached with the plaint. The suit was filed on 17.09.2013. After seven witnesses of the plaintiff-petitioner had been examined, the application for amendment of the plaint was filed on

27.09.2018. The amendments sought read as under :

“(a) That the words written in the head note of the plaint i.e. "East-Road (30 feet)" be replaced and read as "East - Road (20 feet)"

(b) That the words and area written as "CDEF" in between words "as" and "in" in the head note of plaint in sixth line be replaced and read as "CDFE".

(c) That the words and area written as "ABEF" in between words "as" and "in" in fourth line of para no. 1 be replaced and read as "ABFE".

(d) That the words and area written as "ABEF" in between words "as" and "in" in fourth line of para no. 2 be replaced and read as "ABFE"

(e) That the words and area written as "ABEF" in between words "as" and "in" in fourth line of para no. 3 be replaced and read as "ABFE".

(f) That the words and area written as "CDEF" in between words "as" and "portion" in third line of para no. 8 be replaced and read as "CDFE".

(g) That the words and area written as "CDEF" in between words "as" and "in" in fifth line of para no. 10 be replaced and read as "CDFE"

(h) That the words and area written as "CDEF" in between words "as" and "in" in prayer clause fifth line be replaced and read as "CDFE"

3. The said application was contested and vide the impugned order the same was dismissed on the ground that it was pleaded by the plaintiff-petitioner that he had come to know about the alleged typing mistakes after the cross-examination of PW7 and that the amendment was being sought to fill up the lacuna and that accepting the application at this stage would reopen the entire *lis*, resulting in re-examination of the witnesses already examined by the plaintiff-petitioner. Hence, the present revision petition.

4. Learned counsel for the plaintiff-petitioner would contend that the amendment sought is only to correct the typographical mistakes and no prejudice would be caused to the defendant-respondents.

5. *Per contra*, learned counsel for defendant-respondent Nos.1 and 2 has contended that the amendment would amount to reopening the case. Learned counsel has further pointed out that from the amendment sought in the plaint read in conjunction with the site plan originally filed by the plaintiff-petitioner with the plaint, it is not discernible as to which 'CDEF' or 'ABEF' is being referred to inasmuch as point 'A' has been referred in 3 different places in the site plan. Learned counsel has further pointed out that no amended site plan has been filed with the amendment application.

6. Faced with the same, learned counsel for the plaintiff-petitioner

seeks permission to withdraw the present revision petition with liberty to file an appropriate application for filing an amended site plan before the Trial Court.

7. In view of the above, the present revision petition is dismissed as withdrawn with the liberty aforesaid. In case any such application is filed, the same shall be considered by the Trial Court in accordance with law.

8. Pending applications, if any, also stand disposed off.

19.05.2023

Yogesh Sharma

(ALKA SARIN)

JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO