

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CR-4277-2017

Date of Decision :15.03.2023

Raj Mehta

...Petitioner

Versus

Parveen Kumari and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rose Gupta, Advocate and Ms. Garima Modi, Advocate
and Ms. Yashika Walia, Advocate for the petitioner.

Mr. Ravinder Rana, Advocate for respondent No.4.

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Harsimran Singh Sethi, J. (Oral)

Present revision petition has been filed challenging the order dated 23.05.2017 (Annexure P/5) passed by the trial Court by which, an application seeking amendment of the plaint was rejected.

Learned counsel for the petitioner argues that in the present case, inadvertent facts were mentioned due to typographical error and the said incorrect facts could not be noticed despite due diligence and as soon as the said error came to the notice of the petitioner/plaintiff, an application was moved by the petitioner/plaintiff for amendment hence, the trial Court should have allowed the application seeking amendment of the plaint and rejection of the said application by the trial Court is contrary to the settled principle of law settled by the Hon'ble Supreme Court of India in **Civil Appeal No.5909-2022** titled as **Life Insurance Corporation of India vs. Sanjeev Builders Pvt. Ltd and another** decided on 01.09.2022,

Learned counsel for the respondents submits that in fact the

amendment being sought by the petitioner/plaintiff changes the nature of the suit for the reason that initially the suit was filed claiming the ownership of the property in question on the basis of the registered sale deed No.2778 dated 16.08.1985, which was alleged to have been leased out to Ram Chander and defendant No.3-Indrawati whereas, a new fact is now being brought forward that ownership of the property in question came with the plaintiff through the Will of Ram Chander dated 14.04.1989.

Learned counsel for the respondents argues that the nature of the suit is being changed as the factum of ownership is being changed and that too after commencement of trial hence, the order dated 23.05.2017 passed by the trial Court is perfectly valid by which, amendment of the plaint is declined.

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

A suit was filed by the petitioner/plaintiff for restraining and forbidding the defendants from alienating or disposing of the property in question and the ownership of the property in question is being claimed by the petitioner/plaintiff. In para-2 of the plaint facts relating to the ownership have been given, according to which, petitioner/plaintiff became owner of the land in question through registered sale deed No.2778 dated 16.08.1995, which land was further leased out to Ram Chander and Indrawati (defendant No.3). Now by the amendment, factum of ownership of the land in question is claimed through will of Ram Chander dated 14.04.1989 and family settlement arrived thereafter, which fact changes the nature of the suit itself, which cannot be permitted.

The argument raised by the learned counsel for the petitioner

that inadvertently correct facts were not mentioned, cannot be accepted for the reason that in case a person is claiming ownership of a property, he/she does not forget the mode vide which the said person became owner of the property in question. Not only the written statement was filed but even issues were framed and evidence was led and trial had already commenced by the time application seeking amendment was filed hence, it can be safely said that the prayer of the petitioner for amendment of the plaint is not covered under the provision of Order 6, Rule 17 of the CPC, which is mandatory one and the reasons being extended for the amendment also does not inspire confidence as the reason given for seeking amendment is that incorrect facts were mentioned due to typographical mistake.

Keeping in view the above, no interference is called for by this Court and the revision petition is accordingly dismissed.

March 15, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

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