

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-4558-2018 (O&M)
Date of decision : 22.03.2023

Hardev Singh ... Petitioner(s)

Versus

Lal Singh (since deceased) through LRs & Ors. ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Rahul Bhargava, Advocate for the petitioner.

Mr. Vikas Gupta, Advocate for respondent Nos.1 and 2.

ALKA SARIN, J. (ORAL)

The present revision petition has been filed challenging the impugned order dated 18.05.2018 (Annexure P-7) dismissing the application filed under Order 6 Rule 17 of the Code of Civil Procedure, 1908 (CPC) for amendment of the plaint.

The brief facts relevant to the present *lis* are that the plaintiff-petitioner initially filed a suit for permanent injunction for restraining the defendant-respondents from illegally interfering, disturbing or taking forcible possession of the property in dispute. Subsequently, at the time when the case was fixed for the evidence of the plaintiff-petitioner, an application was filed for amendment of the plaint. The application was contested by the defendant-respondents and vide the impugned order dated 18.05.2018 (Annexure P-7)

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the said application was dismissed.

Learned counsel for the plaintiff-petitioner would contend that there is no reasoning forthcoming in the impugned order for dismissal of the application except the reason that it has been filed after the commencement of the trial and that it would amount to wastage of court time.

Per contra, learned counsel for defendant-respondent Nos.1 and 2 has contended that a number of opportunities were granted and instead of leading his evidence, the present application for amendment of the plaint was filed.

Heard.

In the present case the application for amendment has not been dealt with by the Trial Court on merits and has been summarily dismissed without any application of mind by holding that the application has been filed after the commencement of the trial and that the application was being dismissed without adjourning the same for even filing of a reply because the same would amount to wastage of court time. It is not comprehensible as to on what basis the application under Order 6 Rule 17 CPC has been dismissed. Merely because an application was filed after the commencement of the trial cannot be the sole ground for dismissal of the application under Order 6 Rule 17 CPC. In the present case the Trial Court has not even given an opportunity to the defendant-respondents to file their reply and in a very casual manner dismissed the application holding that it would amount to wastage of court time. The impugned order is perverse and is not sustainable in law and is, accordingly, set aside. The matter is remanded to the Trial Court to decide the

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application for amendment afresh, on merits, as well as in accordance with law.

Disposed off accordingly. Pending applications, if any, also stand disposed off.

22.03.2023
Yogesh Sharma

(ALKA SARIN)
JUDGE

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