

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

C.R. No.8364 of 2015 (O&M)

Date of Order:15.09.2023

Joginder Singh Tiwana

.Petitioner

Versus

Swaran Kaur and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

**Present: Mr. Abhishek Kumar Shukla, Advocate
for Mr. Paritosh Vaid, Advocate
for the petitioner.**

**Mr. Ajay Kumar Sharma, Advocate
for respondent no.1 to 3.**

**Mr. A.S.Gill, Advocate
for respondent no.4.**

ANIL KSHETARPAL, J

1. When the case was at the stage of final arguments, an application under Order VI Rule 17 CPC, that was filed by the plaintiff in a pending suit for permission to amend the plaint and also to implead various other co-owners as party defendants has been dismissed.

2. The court of first instance has found that the plaintiff has failed to even assert that despite due diligence he failed to incorporate the proposed amendment at the time of filing of the suit and the plaintiff wants to set up a new case by re-opening the whole trial. The correctness of this order has been challenged in this revision petition.

3. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book.

4. A perusal of the plaint of the suit shows that the plaintiff prays for grant of decree of declaration that he is the exclusive owner in possession

of the land measuring 27 kanals and 12 marlas on the basis of a sale deed no.2477, dated 30.06.1965. Various other alternative prayers have also been made.

5. In the application for permission to amend the plaint, it has been asserted that the land so purchased vide sale deed dated 30.06.1965 is located in various khewat numbers and therefore the amendment in the pleadings are required.

6. This court has considered the submissions of the learned counsel representing the petitioner.

7. The suit of the plaintiff is based on a sale deed. The court while deciding the case will opine on the aforesaid sale deed. It is well settled legal principle that the plaintiff is not required to incorporate the evidence in his pleadings. The court while deciding the case will examine, “whether the property, so purchased, is located in one khewat or more than one khewat?”. Further, the suit was filed in the year 2009 and 14 years have elapsed since the suit was filed.

8. Keeping in view the aforesaid facts and discussion, the revision petition is disposed of with direction to the trial court to decide the case on merits without insisting on the incorporation of the evidence in the pleadings.

9. All the pending miscellaneous applications, if any, are also disposed of.

September 15, 2023
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

:YES/NO
:YES/NO