

CR-8231-2018 (O&M)

**102+204 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR-8231-2018 (O&M)

Date of Decision: 24.03.2023

Manmohan Singh

...Petitioner

Versus

Vishnu Kumar

...Respondents

CORAM:- HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Petitioner in person.

Mr. Ramneek Vasudeva, Advocate
for the respondent.

HARSIMRAN SINGH SETHI, J. (Oral)

CM-5934-CII-2020

Prayer in the present application is for placing on record
Plaint dated May, 2014 annexed as Annexure P-5.

For the reasons mentioned in the application, same is
allowed. Document Annexure P-5, is taken on record subject to all just
exceptions.

CM stands disposed of.

CM-9967-CII-2019

Application is allowed as prayed for subject to all just
exceptions.

CR-8231-2018

In the present civil revision challenge is to the order dated
31.10.2018 (Annexure P-4) passed by Additional Civil Judge, Senior
Division Rupnagar, by which the application seeking the amendment of
the counter-claim has been rejected.

The petitioner, who is present in person, argues that there is a *rasta*, which is actually owned by the petitioner-defendant but is wrongly being claimed by the respondent-plaintiff as his ownership. The petitioner further submits that he had never known that the said *rasta* had been sold to the respondent-plaintiff by the predecessor-in-interest of respondent/plaintiff, vide a sale deed hence, as the injunction has been claimed by the respondent-plaintiff against the petitioner, he has right to challenge the sale deed, wherein the predecessor-in-interest of the respondent-plaintiff had sold the area belonging to the petitioner, which is impermissible. The petitioner argues that the declining of the amendment of the counter claim by the Court below is bad as, by the time the counter claim was filed, the plea that the area in question was being claimed by the respondent-plaintiff as an owner on the basis of the sale deed, was not to the knowledge of the petitioner as the same was never the part of the plaint but was only brought on record during the evidence.

Learned counsel for the respondent submits that once the area in question, the ownership of which is being claimed by the respondent-plaintiff on the basis of a registered sale deed, he has every right to protect the said area and once , the petitioner was not a party to the said sale deed, no grievance can be raised by the petitioner qua the sale deed effected between the respondent-plaintiff and Somnath, from whom the respondent-plaintiff had purchased the property in question.

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

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It may be noticed that both the parties are claiming the ownership of the *rasta* in dispute. Once, the petitioner is also claiming the ownership of the said *rasta* which he had projected in the counter claim, the amendment of the said fact upon acquiring the knowledge that the said *rasta* was sold to the respondent-plaintiff by his predecessor-in-interest - Somnath without jurisdiction, it cannot be said that the petitioner does not have right to challenge the said sale deed so as to contend that the area sold by Somnath to the respondent-plaintiff was beyond his jurisdiction.

The trial Court has totally misdirected itself while declining the said prayer of amendment of the counter claim as, the amendment of the counter claim is necessary for correct and proper adjudication of the claim between the parties.

Consequently, the impugned order dated 30.10.2018 is set aside and the application filed for amendment of the counter claim so as to include the averment to challenge the sale deed on the basis of which the respondent-plaintiff is claiming the ownership of the *rasta* in question is allowed. The trial Court is directed to proceed further in accordance with law hereinafter.

Nothing herein has been submitted qua the merits of the case being projected by either of the parties as the claim of the parties will be substantiated by the facts and evidence which will come on record.

24.03.2023

ps-I

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned

: Yes/No

Whether reportable

: Yes/No