

In the High Court of Punjab and Haryana, at Chandigarh**Civil Revision No. 381 of 2021 (O&M)****Date of Decision: 02.11.2023**

Satinder Pal Singh and Others

... Petitioner(s)

Versus

Ajaib Singh and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.Present: Mr. G.S.Kaura, Advocate
for the petitioner(s).Mr. Mayank Mathur, Advocate
for the respondent No.6 to 8, 10, 11, 13, 15 to 22, 24 to 27
and 32.**Anil Kshetarpal, J.**

1. The petitioners herein are the plaintiffs in a suit filed by them for the grant of decree of declaration to the effect that they are the co-owners in joint possession of the suit property. While filing the suit, the plaintiffs claimed that Buta Singh had two sons, namely Khajan Singh and Hira Singh and a daughter, namely Ajmer Kaur. They claim the property on the basis of a registered gift deed dated 29.06.1945. During the evidence, one of the plaintiffs, namely Harminder Pal Singh appeared in the witness box as PW.4. He disclosed that Ajmer Kaur was the daughter of the sister of Hari Singh. In other words, Ajmer Kaur was the niece of Khajan Singh. When the case was at the stage of final arguments, an application under Order VI Rule 17 of the Code of Civil Procedure, 1908 (hereinafter referred to as “CPC”) was filed to permit the plaintiffs to amend the plaint. It was asserted that in fact, Har

Kaur was the sister Khajan Singh and Hira Singh. In other words, the name of the daughter of Buta Singh was Har Kaur and Ajmer Kaur is the daughter of Har Kaur. The trial Court dismissed the application on the ground that it would result in *de novo* trial and Harminder Pal Singh, while appearing as PW.4, has stated that Buta Singh had only two children, namely Khajan Singh and Hira Singh.

2. The correctness of the aforesaid order has been challenged in this revision petition.

3. Heard the learned counsel representing the parties at length and with their able assistance, perused the paper-book.

4. The learned counsel representing the petitioners submits that there is an inadvertent mistake in the pleadings which is sought to be corrected. The learned counsel further submits that Harminder Pal Singh, while appearing as PW.4, has already stated that Ajmer Kaur was the daughter of the sister of Khajan Singh and Hira Singh. The learned counsel further submits that if the plaintiffs are not permitted to amend the plaint, they shall suffer an irreparable loss and injury.

5. On the other hand, the learned counsel representing the respondents (defendants), while vehemently contesting the revision petition, contends that now a *de novo* trial would commence and the defendants, who have already been contesting the litigation for a period of ten years, shall be made to face the litigation for another bout.

6. This Court has considered the submissions of the learned counsel representing the parties.

7. Order VI Rule 17 CPC enables the parties to file an application

for permission to amend their pleadings. Undoubtedly, by adding a proviso to Order VI Rule 17 CPC, the amendment of the pleadings after the commencement of the trial has been made difficult. However, still the Courts have the power to permit amendment of the pleadings even after the trial has commenced in the interest of justice. Reliance in this regard can be placed on the judgment of the Supreme Court in *Life Insurance Corporation of India v. Sanjeev Builders Private Limited and Another* 2022 AIR (Supreme Court) 4256.

8. In this case, the plaintiffs allege that Khajan Singh, who died issue-less, had executed a registered gift deed in their favour due to love and affection. They want to prove their relationship with Khajan Singh. Hence, the amendment to the pleadings is necessary.

9. As regards the objection of the learned counsel representing the respondents that a *de novo* trial will commence, it would be noted here that the Court can order a limited *de novo* trial, particularly when only a small error is sought to be corrected. It is evident from the reading of the order passed by the trial Court that the Court fell in error while refusing to grant permission only on the ground that Harinder Pal Singh, while appearing as PW.4, has stated that Buta Singh had two children. The same Harinder Pal Singh, while appearing as PW.4, in the examination-in-chief, has stated that Ajmer Kaur was the daughter of Hira Singh's sister. This one line of the cross-examination cannot be read in isolation of the entire statement.

10. Keeping in view the aforesaid facts, the revision petition is allowed. The impugned order passed by the trial Court on 14.02.2020 is set aside. The plaintiffs are permitted to file the amended plaint. Corresponding

opportunity shall be granted to the defendants to file their written statement. The evidence already led by the parties shall be read in evidence. The Court will only permit the plaintiffs and the defendants to lead their respective evidence only to prove that Ajmer Kaur was the daughter of Har Kaur, who was the daughter of Buta Singh.

11. With the observations made above, the present revision petition is allowed. The trial Court is directed to make a sincere endeavour for expeditious disposal of the suit.

12. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

November 02, 2023

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No