

In the High Court of Punjab and Haryana, at Chandigarh**Civil Revision No. 1642 of 2019 (O&M)****Date of Decision: 26.07.2023**

Azad Kaur and Another

... Petitioner(s)

Versus

Ram Chander and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.Present: Mr. Piyush Aggarwal, Advocate
for the petitioner(s).Mr. Sushil Jain, Advocate
for the respondent No.1 to 4 and 8.**Anil Kshetarpal, J.**

1. The petitioner before this Court is the respondent before the First Appellate Court and the plaintiff in a suit filed which was decreed by the trial Court.
2. The plaintiffs filed a suit for grant of permanent and mandatory injunction that they are owners in exclusive possession of Khasra No. 422 (min) which consists of the land measuring 2 kanals and 2 marlas situated in village Birohar (West marked ABCD in the accompanying layout plan).
3. The defendants while contesting the suit claimed that the property in question is not comprised in khasra No. 422. After the issues were framed and the parties led their respective evidence, the trial Court found that the property in dispute is comprised in khasra No. 422. Hence, the suit was decreed on 18.01.2016.

The defendants filed the first appeal to challenge the decree

passed by the trial Court. In the year 2018, the defendants filed an application before the First Appellate court for permission to amend their written statement to take a plea that the suit property is comprised in khasra No. 422. This is a complete reversal of their previous position in the trial Court. The First Appellate Court has allowed the application. The correctness of the aforesaid order has been challenged by the plaintiffs. On reading of the order, it is evident that the Appellate Court has not taken into consideration the stage at which the application was filed or the fact that the defendants are trying to take an absolutely contradictory plea from what was stated in the written statement filed before the trial Court.

5. Keeping in view the aforesaid facts, the learned counsel representing the parties are *ad idem* that the impugned order deserves to be set aside while directing the First Appellate Court to decide the application afresh uninfluenced by the impugned order.

6. With the observations made above, the present revision petition is disposed of.

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

(Anil Kshetarpal)
Judge

July 26, 2023

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No