

204 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-1370 of 2023(O&M)
Date of Decision: 12.10.2023

Gurmukh Singh & Anr.

...Petitioners

Versus

Prabhjot Kaur & Anr.

...Respondents

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. Abhinav Sood, Advocate for
Mr. Vikram Singh, Advocate
For the petitioners.**

None for the respondents.

KARAMJIT SINGH, J.

1. The present revision petition has been filed by the petitioners/defendants seeking setting aside of the order dated 17.02.2023 (Annexure P-8) passed by the Court of Additional Civil Judge (Sr.Divn.), Assandh vide which the application filed by the petitioners under Order 6 Rule 17 CPC for amendment of the written statement has been dismissed.

2. Notice of the petition was issued to the respondents vide order dated 03.03.2023. However, none appeared on behalf of respondents despite their due service.

3. I have heard the counsel for the petitioners.

4. The counsel for the petitioners submits that respondents filed suit for permanent injunction with regard to property in question against the petitioners and in the said suit the petitioners filed detailed written statement wherein it was specifically denied that the respondents are in possession of

the suit property. It is further submitted that due to typographical mistake, in line No. 43 of preliminary objection No.8, word 'plaintiffs' was typed in place of 'defendants'. The counsel for the petitioners while referring to para No.6 of the said written statement, on merits, submits that from the contents of the said para it is clear that petitioners are in possession of the suit property and as such question of dispossession does not arise. The counsel for the petitioners further submits that the aforesaid typographical mistake in preliminary objection No.8 has occurred due to inadvertence. That petitioner filed an application seeking amendment of the written statement to rectify the aforesaid typographical mistake but the said application was dismissed by the trial Court vide impugned order (Annexure P-8) without taking into consideration the fact that the proposed amendment is not going to prejudice the respondents in any manner and in case the proposed amendment is allowed, it will not amount to *denovo* trial. So, prayer is made that the present petition be allowed.

5. I have considered the submissions made by counsel for the petitioners.

6. In preliminary objection No.8 of the written statement, it was typed as follows:-

"It is pertinent to mention that there are two shops constructed having residential house upper of shops in khasra No. 743 (1-18) of khewat No. 2152/2074 which are adjoining to the shop of Krishan Lal Sehgal and the plaintiffs are using the same including the abovesaid land peacefully without any hindrance and interruption from any corner."

7. In Para No.6 of the said written statement, on merits, the petitioners clearly took plea which reads as follows:-

“6. That the contents of the para no.6 of the plaint are wrong and denied. It is wrong to suggest that the defendants are very strong headed, influensive and notorious persons and are having political bank and are bent upon to dispossess the plaintiffs from the suit property illegally and forcibly in which the defendants have no right, title or interest to do so. However the plaintiffs are mischeous(?) type and natorious(?) type of persons. However the defendants are in possession of the suit property so the question of dispossession does not arise.”

8. From the perusal of the aforesaid pleadings, it is evident that in preliminary objection No.8 of the written statement, in place of word ‘defendants’ word ‘plaintiffs’ was typed due to oversight or mistake, as in the pleadings made on merits in the said written statement it has been clearly pleaded that the defendants are in possession of the suit property. It appears to be a typographical mistake only. It is well settled that amendment in the pleadings cannot be refused merely because some mistake, occurred in the pleadings due to inadvertence or oversight. Furthermore, as per the law laid down by Hon’ble Supreme Court in **Life Corporation of India Vs. Sanjeev Builders Pvt. Ltd., 2022 SCC Online SC1128**, all amendments are to be allowed which are necessary for determining the real question in controversy provided it does not cause injustice or prejudice to the other side.

9. Admittedly in the present case the proposed amendment is neither time barred nor is going to result in injustice to other side and further the prayer for amendment is not *malafide* and is not going to demolish a valid defence of the other party.

10. In light of the above discussion this Court is of the view that the impugned order deserves to be set aside being bad in law. Consequently, the present petition is allowed and the impugned order is set aside. The

application filed by the petitioners for amendment of the written statement is allowed subject to costs of Rs.5000/- to be paid by the petitioners to the other party on the next date fixed. The petitioners are directed to appear before the learned trial Court for further proceedings on the date already fixed in the suit.

(KARAMJIT SINGH)
JUDGE

12.10.2023
Jiten

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No