

CR-1416-2022 (O&M)

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2023:PHHC:158682

**137 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR-1416-2022 (O&M)

Date of decision: 11.12.2023

Shree Krishan Gopal Gaushala

....Petitioner

Versus

The Kurukshetra Gaushala Society and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Kulwant Singh, Advocate for the petitioner

Ms. Vibha Tewari, AAG, Haryana and
Mr.J.S.Pannu, AAG, Haryana

ANIL KSHETARPAL, J (Oral)

1. While invoking the superintending power under Article 227 of the Constitution of India, the petitioner (the plaintiff before the trial court) prays for setting aside that portion of the order dated 01.10.2021, whereby its application for the amendment of paragraphs no.4c, 4d and 4e of the plaint has been dismissed.

2. In order to comprehend the issue involved in the present case, the relevant facts, in brief, are required to be noticed. The plaintiff (the petitioner herein) filed a suit on 23.01.2017, with the following prayer:-

“It is therefore prayed that a decree for declaration directing the defendant no.2 to correct the Khasra Girdawri of the land as mentioned in para no.4 of the plaint in the name of plaintiff and further a decree for permanent injunction restraining the

defendant no.1 from dispossessing the plaintiff from the suit land as mentioned in para no.4 of the plaint and from interfering in the peaceful possession of plaintiff and from cultivating the suit land by the plaintiff for ever may kindly be passed in favour of plaintiff and against the defendant, in the interest of justice.

Any other relief/relieves to which petitioner is entitle be given.”

3. In para 4 of the plaint, it has been alleged that the proprietors of the village Uklana donated 182 kanals land to Gaushala Uklana in the year 1889 for the grazing of the cows. The mutation to that effect was entered and sanctioned in favour of defendant no.1 (the Kurukshetra Gaushala Society) Kaithal on the basis of the aforesaid gift deed.

4. During the pendency of the suit, the plaintiff filed an application on 07.05.2021, with a prayer to amend the following:-

“4. That the plaintiff wants to amend the plaint in the following manner:-

a. That the applicant-plaintiff wants to amend the head/caption note ‘suit for declaration’ and instead of that, wants to mention “Suit for declaration and Mandatory Injunction”.

b. That the applicant-plaintiff wants to amend para no.3 of the plaint in the end of said para by narrating following lines:-

“Vide resolution dated 3.1.2016, the managing committee of Shri Krishan Gopal Gaushala Uplana has authorized Shri Gopal Swami Ji to file the present case, to engage a counsel and to do all other acts relevant with the present suit as he is well conversant with the facts of the present case.”

c. That the applicant-plaintiff wants to amend para no.5 of the plaint in line no.7 after the words ‘khasra Girdawari’ by adding the following lines:-

“on the basis of alleged gift deed. Actually the gift was made by the then proprietors of the land in question for the purpose of grazing the cows and for the purpose of inhabitation of the cows and

other animals of the local area and not for outsider and no possession was ever delivered to the defendant no.1. In fact, the possession of the suit land always remained with the local inhabitants who latter on formed the plaintiff's society which is now managing the suit land."

d. That the applicant-plaintiff wants to amend para no.5 of the plaint in the end of para after the word "direction to correct the Khasra Girdawri" by adding following lines:

"The defendant no.1 has got no control over the said land nor the abovesaid land was ever remained in possession of the defendant no.1 in any capacity nor the same is being managed by the defendant no.1 in any manner, rather from its very inception, it is the people of that vicinity who have been serving and managing the abovesaid land in order to serve the gauvansh and entry, if any, in the name of the defendant no.1 in the name of the defendant no.1 qua the said land is patently wrong and in fact, the defendant no.1 has got no right, title or interest in any manner over the suit land and earlier it is the people of that vicinity who had been serving the gauvansh by cultivating the abovesaid land and also for the purpose of grazing the gauvansh and other cattle and now it is being managed by the plaintiff's society."

e. That the applicant-plaintiff wants to amend the prayer clause of the plaint by adding the following words after the word 'declaration' in second line:

"that the revenue entries showing the name of defendant no.1 in the ownership and khana kasht column of Jamabandis on the basis of alleged gift deed and alleged mutation are illegal, null & void ab-initio, nonest, ineffective, inoperative, in contravention of law and not binding upon the right of the plaintiff in any manner as the and further a decree for Mandatory Injunction thereby."

f. That the applicant-plaintiff wants to substitute the word "Khasra Girdawari" in the prayer para in line no.3 with the words "revenue record."

5. The trial court has permitted the plaintiff to amend and incorporate the pleadings in para 4 a, 4b and 4f whereas prayer to incorporate the pleadings in Para 4c, 4d and 4e has been declined.

6. This revision petition has been filed to challenge the correctness of the aforesaid order. The learned counsel representing the petitioner contends that the plaintiff (petitioner) just wants to elaborate the pleadings existing already. He submits that the plaintiff wants to explain the manner in which the property was gifted and was vested in the plaintiff.

7. This Court has considered the submissions made by the learned counsel representing the parties. As per Order VI Rule 2 of the Code of Civil Procedure, 1908 (hereinafter referred to as 'CPC'), the pleadings are required to be restricted to the relevant facts in a concise form. It is also provided that in the pleadings, the parties are not required to incorporate the evidence by which the facts as already alleged are required to be proved. Hence, elaboration of the pleas already taken in the plaint is not necessary.

8. Keeping in view the aforesaid facts, no ground to interfere is made out.

9. Hence, dismissed.

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

11.12.2023

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE