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

CR-2012-2023 (O&M)

Date of Decision: 29.03.2023

Jasbir Singh

...Petitioner

Versus

Satinder Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Simrandeep S. Sandhu, Advocate
for petitioner.

ARUN MONGA, J. (ORAL)

Petition herein is for setting aside order dated 10.10.2022 (Annexure P-5) passed by Ld. Civil Judge (Sr. Division), Rupnagar, whereby the application under Order 6 Rule 17 CPC for amendment of plaint, filed by respondent No.1/plaintiff, was allowed.

2. Succinct facts first, as pleaded in the instant petition.

2.1. Respondent No.1/plaintiff has filed a suit for declaration to the effect that he is the owner and in possession of land in dispute to the extent of his share. Petitioner/defendant No.1 filed his written statement (Annexure P-1) on 15.12.2016, wherein he specifically stated that Harbant Singh @ Bant Singh (i.e., his father) executed a registered Will dated 03.12.2013 (Annexure P-4) in favour of petitioner/defendant No.1 with his free consent, will and in sound disposing mind. It was also submitted that property in dispute was mutated in the name of petitioner/defendant on the basis of the said Will. Respondent No.1/plaintiff filed replication thereto on 22.09.2017.

2.2. Respondent No.1/plaintiff moved an application dated 23.05.2022 (Annexure P-2) under Order 6 Rule 17 CPC for amendment of plaint after a period

of more than 5 years from the date of filing of written statement by petitioner/defendant. Ld. Trial Court has allowed the said application vide impugned order.

3. Learned counsel for petitioner argues that delay in filing the application for amendment of plaint, itself is fatal to the case of respondent No.1/plaintiff. Ld. Counsel for petitioner also relies upon judgment of the Supreme Court in *Asian Hotels (North) Ltd. vs. Alok Kumar Lodha and others, 2022(3) R.C.R. (Civil) 766* to contend that plaintiff cannot be allowed to change the nature of suit by way of amendment.

4. Heard.

5. Grounds urged herein are that the petitioner-defendant had filed his written statement on 15.12.2016, the application dated 23.05.2022 for amendment of the plaint was highly belated and that the proposed amendment of the plaint would change the nature of the suit. These contentions were also raised and rejected by the learned trial Court by recording cogent and convincing reasons while allowing the amendment of the plaint on payment of costs of Rs. 3,000/- . I am inclined to agree with the view taken by the learned trial Court.

6. In his written statement, the petitioner-defendant himself has propounded the will dated 03.12.2013 and transfer deed dated 09.06.2014 executed by late Harbant Singh @ Bant Singh and consequent mutation entry dated 03.12.2014 in his favour. Amendment of the plaint to challenge the said will, transfer deed and mutation entry by inserting incidental recitals would not change the nature of the suit. Firstly, the delay in the disposal of the suit caused by the amendment of the plaint is more to the disadvantage of the plaintiff than the defendant. Secondly, the amendment of the plaint has been allowed by

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the learned trial Court on payment of costs of Rs. 3,000/-,to compensate the defendant for delay.

7. No material irregularity in law or procedure has been committed by Ld. Court below while passing the impugned order calling for interference in exercise of extraordinary revisional jurisdiction.

8. In view of the aforesaid, nothing survives for adjudication before this Court. Revision petition is dismissed being devoid of merit.

9. Pending civil miscellaneous application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

March 29, 2023
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No