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108 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-2676-2023 (O&M)
Date of Decision: 02.05.2023

Charanjit Singh

..... Petitioner

Versus

Harjit Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. S.S.Rangi, Advocate,
for the petitioner.

RAJBIR SEHRAWAT, J. (ORAL)

CM-7955-CII-2023

Allowed, as prayed for.

Main Case

This is a petition filed under Article 227 of the Constitution of India praying for setting aside the impugned order dated 17.01.2023 (Annexure P-7) passed by the Civil Judge (Junior Division), S.A.S. Nagar Mohali, whereby the application filed by the petitioner under Order 6 Rule 17 of the Code of Civil Procedure for amendment of the plaint was dismissed.

It is submitted by the learned counsel for the petitioner that the suit originally filed by the petitioner already contains the relief qua his claim qua title to the property and the declaration thereof. After the remand by the lower Appellate Court, the Trial Court is to decide the suit afresh by

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recording findings on all the issues. However, since the petitioner had, inadvertently, not made the prayer qua consequential relief of separate possession, therefore, he had moved an application for amendment of head note and the prayer clause of the suit, without adding any other pleading in the plaint; as such. Learned counsel has further submitted that the prayer of the petitioner has wrongly been declined on the ground that the amendment would lead inordinate delay in decision of the suit. It is asserted by the learned counsel that there is no question of any delay in decision of the suit on account of the amendment; because the amendment relates only to prayer in the suit and not regarding any pleadings, requiring any further evidence. Hence, once the petitioner is not even to lead any fresh evidence, the observations made by the Court below that amendment would lead to delay in decision of the suit is otiose.

In view of the nature of the order being passed in this case, this Court does not see any requirement of issuing notice to the respondents; at this stage.

Having heard learned counsel for the petitioner and having perused the case file, this Court finds that the petitioner has already filed the suit for declaration of his title qua one-third share in the suit property. Whatever evidence the petitioner intended to lead to support his assertion qua his title, already stands led on the file. The petitioner has even asserted that the petitioner is not to lead any fresh evidence in his suit; as such. Therefore, the amendment of prayer clause only, would not lead to any delay

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in decision of the suit. The observations made by the Court below to that extent cannot be sustained.

Otherwise also, since the petitioner is adding prayer only qua consequential relief, therefore, it would be, otherwise also, appropriate if he is permitted to amend the prayer clause, so as to avoid multiplicity of litigation; because if the petitioner is not permitted to amend the suit, at this stage, then he would have to file a separate suit, in case his suit qua declaration of title is decreed.

In view of the above, the order impugned in the present petition is set aside. The application under Order 6 Rule 17 of the CPC filed by the petitioner for amendment of the plaint is ordered to be allowed. The Trial Court is directed to take on record the amendment plaint and to proceed further with the decision of the case, in accordance with law.

(RAJBIR SEHRAWAT)
JUDGE

02.05.2023
adhikari

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No