

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

CR-3263-2022(O&M)

Date of decision:-27.2.2023

Raj Rani

...Petitioner

Versus

Poonam Singh and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Sanjiv Kumar Aggarwal, Advocate with
Mr.Ojas Bansal, Advocate
for the petitioner.

Mr.Sanjay Jain, Advocate
for respondent No.1.

H.S. MADAAN, J.

1. Under challenge in this revision petition is the order dated dated 16.7.2022 passed in civil suit pending in the Court of Civil Judge (Jr.Divn.), Ambala vide which an application under Order 6 Rule 17 CPC for amendment of the plaint filed by the plaintiff was allowed.

2. Briefly stated, facts of the case are that during the course of proceedings in Civil Suit titled 'Poonam Singh Versus Rattan Singh etc.' pending in the Court of Civil Judge (Jr.Divn.), Ambala, the plaintiff had filed an application under Order 6 Rule 17 CPC for amendment of the plaint contending that the plaintiff had filed a suit for grant of permanent injunction restraining the defendants from interfering into legal and lawful possession of the plaintiff and from encroaching upon property of the plaintiff by raising any sort of construction thereon by dispossessing the

plaintiff forcibly and illegally from the property comprised in khasra No.11/36 situated at Jandli, Tehsil and District Ambala known as Kanshi Nagar, Ambala City. Along with that suit the plaintiff had filed an application for grant of ad interim injunction. The trial Court vide order dated 1.3.2016 had restrained the defendants No.9 to 12 from raising construction over the suit property. As per the case of the plaintiff there had taken place an error in suing defendants No.2 and 3 through their attorney defendant No.1 Rattan Singh, which is of typographical nature and further during proceedings of the case defendant No.8 Smt.Raj Rani with a *mala fide* intention had encroached upon the suit land of plaintiff in collusion with defendant No.15 raising construction therein necessitating the amendment of the plaint to seek relief of possession by way of partition and mandatory injunction.

3. That application was resisted by defendant No.8 on various grounds legal as well as factual.

4. However, the amendment was allowed by the trial Court vide the impugned order, leaving the defendant No.8 aggrieved and she has knocked at the door of this Court by filing the present revision petition.

5. Notice of the revision petition was issued to respondent No.1 only, who has put in appearance through counsel.

6. I have heard learned counsel for the parties besides going through the record.

7. Learned counsel for the revision petitioner has contended that the application for amendment of plaint does not contain necessary particulars as to in which paragraph the amendment has been sought to

what effect, therefore, the application could not have been entertained. In support of his such arguments, he has referred to judgment **Rajpal Versus Subhash and others, 2015(8) RCR(Civil) 93** and **Gurdial Singh Versus Raj Kumar Aneja, 2002(1) RCR(Rent) 194.**

8. Whereas learned counsel for respondent No.1 has countered those arguments contending that no infirmity can be found with the application for amendment of the plaint and application was rightly allowed by the trial Court. In support of his such submission, he has referred to judgment **Prithi Pal Singh & Anr. Versus Amrik Singh & Ors., 2014(1) Civil Court Cases 797 (S.C.)**, wherein it was observed that merits of the averments sought to be incorporated by way of amendment are not to be judged at the stage of allowing prayer for amendment and the dominant purpose of the amendment is to minimize the litigation.

9. After considering the rival contentions and going through the record, I find that there is no merit in the revision petition.

10. The trial Court has allowed the application in light of the settled judicial position keeping in view the fact that the application had been filed at the initial stage, when written statement was yet to be filed and amendment sought by plaintiff was found to be necessary since according to the plaintiff, the defendant No.8 had encroached upon the suit land in collusion with defendant No.15 during the pendency of the suit. Making reference to the judgment **Gurdial Singh Versus Raj Kumar Aneja** (supra), learned trial Court has observed that in the present case the plaintiff has followed the Sub Rule 2 in letter and spirit and he has mentioned in the application about proposed amendment, therefore no

violation has taken place. It has further been observed that the proposed amendment is necessary to reach just conclusion of the case.

11. The impugned order passed by the trial Court is quite detailed and well reasoned and it does not suffer from any illegality or infirmity and is not having any element of arbitrariness or perversity. The revisional jurisdiction of this Court is quite limited and considering the facts and circumstances of the case, there is no reason to interfere with the impugned order by way of exercising the revisional jurisdiction.

12. Finding no merit in the revision petition, the same stands dismissed.

Since the main revision petition has been dismissed, the miscellaneous application(s), if any, stand disposed of accordingly.

27.2.2023
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No