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

CR-3504-2022

Date of decision: 06.12.2023

Gurmeet Kaur

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Ankit Chaudhary, Advocate for
Mr. Vikram Singh, Advocate for the petitioner.

Mr. Neeraj Sheoran, DAG, Haryana
for respondents No.1 & 2.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner/plaintiff seeking setting aside of the order dated 17.08.2022 (Annexure P-8) passed by the Court of learned Civil Judge (Junior Division), Ambala vide which an application of the petitioner under Order 6 Rule 17 CPC for amendment of plaint was dismissed.

2. The brief facts of the case are that the petitioner filed suit for declaration challenging certain sale deeds and for mandatory injunction directing the respondents No.1 & 2 to incorporate the sale deed No.12924 dated 14.03.2006 in the revenue record and for permanent injunction restraining respondents No.6 to 9 from alienating the suit land. The suit was being contested by the respondents.

3. During the pendency of the suit, petitioner filed an application under Order 6 Rule 17 CPC seeking amendment of the plaint in order to rectify a typographical mistake as per which sale deed number was wrongly

written as 12924 dated 14.03.2006 instead of sale deed No. 13763 dated 14.03.2006. The application was contested by the respondents. The learned trial Court dismissed the said application seeking amendment of the plaint on the ground that the same was filed at the belated stage and that to without due diligence, vide impugned order (Annexure P-8).

4 Being aggrieved, the present revision petition has been filed by the petitioner.

5. The revision petition is being contested by respondents No.1 & 2 through State counsel, however, the service of the remaining respondents was not effected as their correct address is not known to the petitioner.

6. The counsel for the petitioner while assailing the impugned order has inter alia contended that the proposed amendment is necessary for determining the real question in controversy. That even otherwise, amendment has been sought with regard to correction of serial number of the sale deed which was typed as 12924 in place of 13763 due to typographical mistake.

7. The state counsel while supporting the impugned order has submitted that there is no illegality or infirmity in the said order.

8. I have considered the submissions made by counsel for the parties.

9. By way of amendment petitioner/plaintiff intends to amend the plaint to correct typographical mistake as per which sale deed number is wrongly typed as 12924 whereas the actual number of sale deed is 13763. The proposed amendment is not going to change the nature of the suit and will not amount to withdrawal of any admission made by the

petitioner in the original plaint. The proposed amendment cannot be treated as a time barred and is not going to prejudice the defence, if any, taken by the respondents in their written statements. The proposed amendment cannot be declined just on the ground that the same is being sought at the belated stage. The petitioner filed the application seeking amendment as and when he came to know about the aforesaid typographical mistake. The rectification of the said typographical mistake is not sought by the petitioner to delay the proceedings and cannot be termed as malafide and rather would help the trial Court in proper adjudication of the suit. In case filing of the application for amendment has caused any delay in disposal of the suit, for the same the other party could be compensated by imposing cost.

10. In light of the above, the present petition is allowed and the impugned order is set aside and application filed by the petitioner seeking amendment of the plaint is allowed and petitioner is permitted to file amended plaint as prayed for subject to cost of Rs.7,000/- to be paid by the petitioner to the contesting respondents on the next date fixed in the suit.

11. Keeping in view the nature of order being passed, the present revision petition is being disposed of without effecting the service of private respondents. However, if they feel dis-satisfied with this order, they may move an application to recall the same.

06.12.2023

Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No