

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

134

2023:PHHC:142821

CR-3546-2022

Date of decision: 08.11.2023

DAVINDER SHARMA@ DAVINDER PAL

..Petitioner

Versus

HANUMAN MANDIR AND ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sherry K. Singla, Advocate
for the petitioner.

Mr. Ajeet Pal Singh Pakka, Advocate
for respondent No.1.

ANIL KSHETARPAL, J(Oral)

1. The petitioner herein is the defendant in a plaintiff's suit for grant of decree of permanent injunction restraining the defendants from interfering in its peaceful possession. The suit has been filed by an Idol. While contesting the suit, the petitioner in para 2 of the legal objections submitted that he is a co-sharer in the suit property as his father Sh. Jai Ram was the owner.

2. Para 2 of the legal objections is extracted as under:-

"2. that the plaintiff have concealed the true facts from this hon'ble court by mentioning the defendants as stranger to the suit property because the defendants are not the stranger to the suit property rather they are co-share in the suit property along with the plaintiff and other legal heirs of the deceased jai ram who was the father of the plaintiff and defendants. true facts are that the property in question was owned by deceased jai ram who was the father of the plaintiff and defendants along with other legal heirs of the deceased jai ram and after the death of jai ram the plaintiff and defendants along with other legal heirs of the deceased had became the owner in possession of the suit property & the ownership of the jai ram had admitted by the plaintiff in written statement filed by the plaintiff in another suit filed by the defendant no.2 against the plaintiff which is pending in this hon'ble court and same is fixed for 21-08-2013 and

in that suit this hon'ble court had granted injunction against the plaintiff rajinder pal sharma regarding the other property of jai ram but now plaintiff by showing himself sole owner or priest of the mandir want to grab the suit property illegally and forcibly. it is further submitted that the plaintiff by mentioning false facts before this hon'ble court had obtained ex-parte injunction to remove the original structure of the suit property and want to change the nature of the suit property by raising new construction over the suit property."

3. When the case was at the stage of defendant's evidence, an application under Order VI Rule 17 of the Code of Civil Procedure, 1908, for permission to amend the written statement was filed. The petitioner now wants to incorporate in his written statement the fact that he has inherited the property from his father through a Will dated 15.10.2008. The application has been dismissed by the trial Court. The correctness of the aforesaid order has been challenged in this revision petition.

4. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

5. The learned counsel representing the petitioner contends that there is another suit filed by the plaintiff in which the petitioner (defendant) has propounded the Will dated 15.10.2008. He submits that the plaintiff will not suffer any prejudice if the application is allowed.

6. This Court has considered the submissions of the learned counsel representing the parties.

7. As per Order VII Rule 2 of the Code of Civil Procedure, 1908, the pleadings of the parties are required to be restricted to the statement of material facts in a concise form. The evidence is not required to be made part of the pleadings as pleadings are required to be restricted to material

facts only. The petitioner while filing the written statement has already pleaded that he would be the owner of the property after the death of his father. In these circumstances, there is no requirement of amendment of the pleadings in view of the provisions contained in Order VII Rule 2 of the Code of Civil Procedure, 1908.

8. Hence, no ground to interfere is made out.

9. Dismissed accordingly.

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

November 08th, 2023

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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*