

CR-5515 of 2023

2023:PHHC:123847

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

CR-5515 of 2023

Date of decision: 19.09.2023

Balbir Kaur

.....Petitioner

vs.

Narinder Kaur and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Dinesh Nagar, Advocate,
for the petitioner.

NAMIT KUMAR, J. (ORAL)

1. Instant revision petition has been filed under Article 227 of the Constitution of India challenging the order dated 19.08.2023 (Annexure P-6) passed by the Court of learned Civil Judge (Junior Division), Garhshankar, Hoshiarpur, whereby application filed by the petitioner-plaintiff under Order 6 Rule 17 CPC and Order 1 Rule 10 CPC for amendment of plaint and impleading electricity department as additional defendants, has been dismissed.

2. Brief facts leading to the filing of the present revision petition are that petitioner filed a suit for permanent injunction restraining the defendants themselves or through any person from raising any sort of construction or encroaching any part of the *katcha* street as shown red marked with letters ABCD bounded as East Jasib Singh, West joint property of plaintiff and defendant No.1, North joint property of plaintiff and defendant No.1, South *Pacca* road, which is part of khasra No.740, situated in the area of village Satnaur, Tehsil Garhshankar, District

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Hoshiarpur. Upon notice, defendants appeared and contested the suit by filing their written statement. Petitioner-plaintiff filed an application under Order 6 Rule 17 CPC seeking amendment of the plaint seeking relief of mandatory injunction. The said application was allowed by the trial Court vide order dated 18.08.2021 and petitioner was permitted to amend her plaint. Thereafter, petitioner-plaintiff filed application under Order 6 Rule 17 CPC and Order 1 Rule 10 CPC for amendment of plaint and impleading electricity department as additional defendants, which has been dismissed by the trial Court vide impugned order dated 19.08.2023.

3. Learned counsel for the petitioner contended that the impugned order passed by the trial Court is perverse. He further contended that the trial Court has failed to appreciate that during the pendency of the suit, defendants have installed an electric meter in the property in dispute therefore, proposed amendment is very much necessary for the proper adjudication of the controversy and PSPCL is required to be arrayed as party defendant for the said purpose. He further contended that by amendment of the plaint and impleadment of the additional defendants, no prejudice would be caused to the defendants. He further contended that impugned order being not sustainable in the eyes of law is liable to be set aside.

4. I have heard learned counsel for the petitioner and perused the record.

5. From the perusal of the record it transpires that by way of proposed amendment, petitioner-plaintiff wants to change the nature of the suit and to plead the fresh cause of action, which is not permissible under

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the law. As per the settled proposition of law, if, by permitting plaintiffs to amend the plaint including a prayer clause nature of the suit is likely to be changed, in that case, the Court would not be justified in allowing the amendment. It would also result in misjoinder of causes of action. Plaintiffs cannot be permitted to join any party as a defendant who may not be necessary and/or proper parties at all on the ground that the plaintiffs is the *dominus litis*.

6. The impugned order passed by the trial Court is 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.

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

19.09.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No