

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(106)

CR No. 4696 of 2022
Date of Decision : 25.01.2023

Chand Singh

...Petitioner

Versus

Ajit and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sushil Jain, Advocate for the petitioner.

Harsimran Singh Sethi J. (Oral)

In the present civil revision petition, the challenge is to the order dated 17.09.2022 (Annexure P-7) by which the application filed under Order 6 Rule 17 CPC at the stage of the appeal, has been allowed to correct the typographical error, which leads to the filing of the plaint.

The respondents-plaintiffs filed an application seeking amendment of the plaint so as to correct certain typographical errors occurred with regard to the khasra number given and the area of khasra number along with description. As per the application filed, in the plaint, the khasra number was wrongly mentioned as 5638/1451/3, but the actual khasra number was 5638/1451/4 and the area was typed as “7B-0B” instead of “0-7biswas” to be on the eastern side. The said application has been allowed by the court below being the typographical error, vide order dated 17.09.2022 (Annexure P-7), which order is under challenge in the present civil revision petition.

Learned counsel for the petitioner-defendant argues that the amendment being allowed by the court below by the impugned order is not just in regard to typographical error but it materially affects the petitioner-defendant. Learned counsel submits that the nature of the property is being changed by the said amendment, which cannot be allowed at the appeal stage.

Qua the said argument, it may be noticed that only the figure of the khasra number, which was a typographical error is sought to be amended. Further, while filing the application for amendment, the respondents-plaintiffs agreed not to lead any evidence even after the allowing of the said amendment. Once, only the description of the property is being corrected, which description was wrongly given in the plaint which was due to typographical error, no prejudice is to be caused to the petitioner-defendant and hence, does not need any interference by this court.

Learned counsel for the petitioner-defendant relies upon the judgment of the co-ordinate bench of this court in CR No. 644 of 2016 titled as ***Surinder Kaur Vs. Harbhajan Lal and others***, decided on 16.12.2017 to submit that the amendment could not be allowed at the appeal stage., The facts, which exist in ***Surinder Kaur's case (supra)***, are entirely different as compared to the facts in the present case. In the present case, the amendment was to correct the typographical error, which was not the case in ***Surinder Kaur's case (supra)*** hence, no benefit of the said judgment can be extended to the petitioner-defendant.

Learned counsel for the petitioner-defendant also relies upon the judgment of the Hon'ble Supreme Court of India in Civil Appeal No.

3362 of 2006 titled as ***Baldev Singh and others Vs. Manohar Singh and another***, decided on 03.08.2006 to contend that though the amendment in the written statement can be allowed but cannot be allowed in the case of the plaintiff. The proposition laid down by the Hon'ble Supreme Court of India in ***Baldev Singh and others's case (supra)***, is not applicable in the facts and circumstances of the present case, where by way of amendment, the typographical errors have only been sought to be corrected, which has been allowed by the trial court and that too with the condition that no further evidence is to be led on the basis of the amendment allowed.

That being so, the judgments being relied by the learned counsel for the petitioner-defendant are not applicable in the facts and circumstances of the present case.

Keeping in view the facts and circumstances noticed hereinbefore, no interference is called for by this court in the order dated 17.09.2022 passed by the court below.

Accordingly, the present civil revision petition is dismissed.

January 25, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No