

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

CR-2713-2015(O&M)

Reserved on:-19.4.2023

Date of Pronouncement:-26.4.2023

Gurdwara Parbandhak Committee Sant Nagar Bachhowal, Tehsil Phillaur,
District Jalandhar and another

...Petitioners

Versus

Gurpreet Singh and others

...Respondents

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

Present: Mr.Dinesh Kumar, Advocate and
Mr.Arvind Galav, Advocate for
Mr.P.L. Singla, Advocate
for the petitioners.

Mr.Onkar Rai, Advocate
for respondents No.1 to 4 and 8 to 10.

H.S. MADAAN, J.

1. Under challenge in this revision petition is the order dated 20.3.2015 passed by the Court of Civil Judge (Jr.Divn.), Phillaur vide which an application under Order 6 Rule 17 CPC filed by the plaintiffs for the amendment of the head-note of the plaint regarding description of the suit property had been dismissed.

2. Briefly stated, facts of the case are that during pendency of the civil suit titled “Gurdwara Parbandhak Committee Sant Nagar Bachhowal, Tehsil Phillaur, District Jalandhar and another Versus Gurpreet Singh and others” in the Court of Civil Judge (Jr.Divn.), Phillaur, the plaintiffs had filed an application for amendment of the plaint so as to take plea that the plaintiffs had purchased the property from the previous

owner vide sale deeds dated 2.4.1991 and 4.4.1991, copies of such sale deeds and fard jamabandies have already been proved in evidence, however, inadvertently the khewat, khatoni and khasra numbers of the property in question were not mentioned. Now the plaintiffs want to mention such numbers by getting the plaint amended and therefore filed the application in that regard.

3. The application was opposed on behalf of the defendants contending that it was not maintainable and rather it was highly belated; the case of the plaintiffs is not based on any sale deed; the case was fixed for final arguments and 11 opportunities have been obtained by the plaintiffs to address arguments without doing so; the application has been filed to delay the proceedings and if the same is allowed that would re-open the case.

4. After hearing arguments, the trial Court dismissed the application vide the impugned order. For ready reference the operative part of the order is being reproduced as under:

After hearing learned counsel for both the parties and perusal to the record it shows that the plaintiffs have filed the present suit for possession as owner regarding the property in dispute having boundaries mentioned in the head note of plaint. No mention of any sale deed is given in the title of the plaint. In para no.1 to 3, mention of sale deeds dated 2.4.1991, 3.4.1991 and 4.4.1991 is made. During his evidence said sale deeds are also exhibited of dated 2.4.1991 as Ex.P2, sale deed dated 3.4.1991 as Ex.P3 and sale deed dated 4.4.1991 as Ex.P4. Both the parties have

led their evidence in response to the issues framed on 2.3.3.2012. Even defendants closed their evidence on 9.2.2015. Thereafter, even learned counsel for the plaintiffs closed the rebuttal evidence and case was fixed for arguments on 27.2.2015. Instead of advancing arguments, the present application has been filed by the plaintiffs on the ground that the khasra numbers mentioned in the sale deeds were not mentioned in the head note of the plaint.

Nothing has been mentioned regarding the reason for not impleading the khasra numbers when plaintiff filed the present suit on 14.11.2009. In these circumstances it seems that the present application is filed only for the purpose of delaying the disposal of this case. So, the application in hand is considered without merits, and is dismissed with costs of Rs.300/- to be paid by the applicants/plaintiffs to the defendants.

5. Such order left the plaintiffs aggrieved and they have approached this Court by way of filing the present revision petition, notice of which was issued to the respondents and respondents No.1 to 4 and 8 to 10 have put in appearance through counsel.

6. I have heard learned counsel for the parties besides going through the record and I find that there is absolutely no merit in the revision petition.

7. Order 6 Rule 17 CPC deals with the topic amendment of pleadings. It provides that the Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on

such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties.

The proviso makes the things clear dilating that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.

8. In this case, the application for amendment of the plaint was filed when the case had reached the stage of arguments and plaintiffs had availed off several opportunities to address arguments. Therefore, when the trial was at the fag end moving of the application was not justified. The plaintiffs cannot claim that they could not have got the plaint amended earlier on account of lack of knowledge regarding the facts now sought to be pleaded. The sale deeds were available with them so were the copies of jamabandies and as has been mentioned in the impugned order itself, the sale deeds and jamabandies have been exhibited in the evidence. The proviso clearly bars the filing of application, which is highly belated. The trial Court did not find the proposed amendment to be necessary for the purpose of determining the real question of controversy between the parties, rather the application has been found to have been filed only for the purpose of delaying the disposal of the case, as such it was dismissed with costs. It appears that the plaintiffs want to set the clock back by getting the plaint amended so as to have a *de novo* trial, which cannot be allowed.

9. Learned counsel for the revision petitioners has referred to

judgments i.e. *Sajjan Kumar Versus Ram Kishan, 2005(13) SCC 89* and *Usha Devi Versus Rijwan Ahamd & Ors., 2008(1) RCR(Civil)840*.

However, those judgments are not applicable to the present case due to different facts and circumstances of the case and the context in which such observations had been made.

10. 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.

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

The interim order dated 23.4.2015 passed by this Court staying passing of final order by the trial Court thus comes to an end.

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

26.4.2023
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No