

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

113

2024:PHHC:004194

CR-325-2019

Date of decision: 12.01.2024

**KUMARI KHUSHI MINOR THROUGH GUARDIAN
PHOOL SINGH**

..Petitioner

Versus

KRISHAN KUMAR AND ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Gurinder Pal Singh, Advocate
for the petitioner.

ANIL KSHETARPAL, J(Oral)

1. The petitioner herein filed a suit for grant of decree of declaration with a consequential relief of permanent injunction. The suit property was purchased in her name on 07.04.2004, however, her father Sh. Virender gifted the aforesaid property to petitioner's mother, who in turn sold the same to defendant No.1 Sh. Krishan Kumar. The plaintiff being a minor filed a suit through her guardian namely Sh. Phool Singh, her grandfather. Inadvertently, in the plaint, her date of birth was pleaded as 14.05.2004. The defendants chose not to contest the suit and were proceeded against ex parte. The petitioner filed an application under Order VI Rule 17 of the Code of Civil Procedure, 1908, for permission to amend the plaint in order to mention the correct date of birth i.e. 29.01.2004. The learned trial Court dismissed the application on the ground that her date of birth in the certificate issued by the Registrar of Date of Birth is 14.05.2004 and unless it is corrected in the register i.e. the Record, the amendment to the plaint cannot be permitted.

2. This Bench has heard the learned counsel representing the petitioner at length and with his able assistance perused the paperbook.

3. It is evident from the facts noted above that the main issue in the present case is with respect to the ownership of the minor to the suit property. Her date of birth in the peculiar facts of the case does not hold significance. In any case, the Civil Court is competent to decide her actual date of birth if it is relevant. The petitioner has filed an application only to correct an inadvertent error made in the plaint. In substance, the suit remains same and it's nature does not change if the amendment is permitted. In these circumstances, the trial Court has erred in dismissing the application. Section 152 and 153 of the Code of Civil Procedure, 1908, do enable the Court to allow the amendments to the pleadings as well as judgment and decree even after the main case has already been decided. Hence, while allowing the revision petition, the impugned order is set aside.

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

January 12th, 2024
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No