

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-997-2020 (O&M)

Date of decision: 16.05.2024

Shiv Mandir Brahmna (Bederain Wala) Sewa Committee, Balachaur

....Petitioner

Versus

Kanta Rani @ Umesh Giri and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

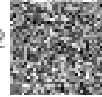
Present:- Mr. Harsh Aggarwal, Advocate for the petitioner

Ms. Sarika Gupta, Advocate for the respondents

ANIL KSHETARPAL, J (Oral)

1. Shiv Mandir Brahmna (Bederain Wala) Sewa Committee, Balachaur has filed a suit for the grant of decree of declaration that the religious institution is owner in possession of 2 kanals 18 marlas land, which is a religious property. During the pendency of the suit, the plaintiff filed an application to correct typographical mistakes as well as omission in his plaint, which has been dismissed by the trial court on the ground that the first application filed by the plaintiff was allowed and the plaintiff was aware of the fact that the defendant Kanta Devi died on 29.04.2014. Moreover, it has been observed that the plaintiff has filed the suit on the basis of wrong facts and has misused the process of law, just to grab the religious property. The correctness of the order has been challenged in this revision petition.

2. Learned counsel representing the petitioner, while referring to the proposed amendments, submit that certain typographical

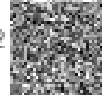


omissions are sought to be corrected in the plaint and the amendment sought is formal in nature. He submits that the suit has been filed by the religious institution and the plaintiff wants to assert that it is being managed by the Manager.

3. Per contra, the learned counsel representing the respondents submits that the nature of entire suit has been changed because the previously plaintiff filed a suit claiming to be owner in possession, which is now being changed to Manager. She further submits that the first application for amendment was allowed but the plaintiff failed to incorporate the proposed amendments in the first application. She further submits that the status of the plaintiff has been changed and moreover, the nature of the suit is being changed.

4. This Court has considered the submissions made by the learned counsel representing the parties.

5. The amendments in the pleadings are required to be categorised in different categories. The formal amendments arising from inadvertent mistakes/typographical errors should be allowed, whereas the substantive amendments are required to be considered on a totally different standard. In this case, the plaintiff is a religious institution, which has to manage its affairs through its representatives. This suit was originally filed by the religious institutions through its General Secretary. It was claimed that the plaintiff is a juristic person and the property in dispute is a religious property. It was also asserted that defendant no.1 alleged to be disciple of Sureshwar Giri, who is a stranger and shrewd person, who wants to usurp the property in



connivance with the land grabbers. In such a situation, the court was required to assume the role of a guardian, particularly when the religious property was involved. The paramount consideration of the Court should be to protect the religious property from encroachments and incidents of grabbing. In these circumstances, the court is required to be extra vigilant. While claiming that the plaintiff is owner in possession, the reference is to the religious institution and not to the General Manager. He was only a representative of the religious institution. In the opinion of the Court, there is no substantive change in the stand of the plaintiff. The trial court has erred in observing that Kanta Devi has died but that fact has not been amended by the plaintiff. Admittedly, Kanta Devi died during the pendency of the suit. Defendant no.2 claims to be disciple of defendant no.1 who is already on record.

6. Keeping in view the aforesaid facts and discussion, the impugned order dated 20.01.2020 is set aside and consequently, the application filed by the petitioner shall stand allowed.

7. The revision petition stands allowed.

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

16.05.2024

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE