



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.690 of 2024 (O&M)

Date of Order:24.07.2024

Sh. Atam Prakash and another

..Petitioners

Versus

Sh. Raj Kumar and others

..Respondents

CR No.2092 of 2023 (O&M)

Raj Kumar

..Petitioner

Versus

Somanshu and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sumeet Jain, Advocate
for the petitioners(in CR-690 of 2024)

Mr. Tanmoy Gupta, Advocate
for the petitioner (in CR-2092 of 2023)

Mr. Aman Bansal, Advocate
for respondent nos.2, 3 and 16 (in CR-690-2024)
for respondent nos.1 to 3 (in CR-2902-2023)

Mr. Adarsh Jain, Advocate, and
Ms. Kamaldeep Kaur, Advocate
for respondent nos.7 & 8.

ANIL KSHETARPAL, J

1. Through these two civil revision petitions, two separate orders passed by the trial court in the same suit are called in question.

2. In Civil Revision No.690 of 2024, the trial court has dismissed the application filed by defendant nos.11 and 12, under Order 1 Rule 10 CPC with a prayer to implead various co-owners as defendants in a partition suit. The trial court has held that the amendment to the plaint should not be

allowed when the parties failed to prove due diligence and under the garb of an application under Order 1 Rule 10 CPC, the court has also held that the case is at the stage of last opportunity to the plaintiff's evidence.

3. In Civil Revision No.2092 of 2023, an application filed under Section 151 CPC for permission to amend the plaint so as to implead various co-sharers has been dismissed. Admittedly, the suit is for partition with consequential relief of permanent and mandatory injunction.

4. The learned counsel representing the parties do not dispute that the persons sought to be impleaded as parties are co-sharers. In these circumstances, the court should have allowed the application even if it was filed at a belated stage, subject to payment of costs.

5. Without impleadment of all the co-sharers, the suit filed by the plaintiff(s) for partition of the property is likely to fail. In these circumstances, the court should have been more indulgent in allowing the application. The learned counsel representing respondent no.1 to 3 submits that it would amount to changing the nature of the suit. The argument has no substance because the suit for partition remains as it is.

6. Keeping in view the aforesaid facts and discussion, both the revision petitions are disposed of accordingly.

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

July 24, 2024

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Whether speaking/reasoned

Whether reportable

:YES/NO

:YES/NO

(ANIL KSHETARPAL)
JUDGE