



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(207)

CR-1916-2023 (O&M)

Date of Decision:-19.11.2024

RAMESH HANDA

... Petitioner

Versus

SUBHASH CHANDER HANDA AND ORS

... Respondents

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CORAM: HON'BLE MR. JUSTICE ALOK JAIN

Present:- Ms. Bindu Goel, Advocate with
Mr. Pritish Goel, Advocate
for the petitioner.

Mr. Karan Bhardwaj, Advocate
for the respondents.

ALOK JAIN, J. (Oral)

1. Present petition has been filed by the petitioner *inter-alia* challenging the order dated 08.02.2023 (Annexure P-7), whereby the application filed by the present petitioner (original plaintiff) under Order 6 Rule 17 and Order 1 Rule 10 Code of Civil Procedure (in short 'CPC') for amendment of the plaint and for impleading the necessary parties has been dismissed by the learned Court below.

2. Learned counsel for the petitioner submits that during the pendency of the proceedings, the defence of the respondents was struck off vide order dated 03.12.2015 and for three years the respondents did not move any application. Thereafter an application was moved for permitting



the respondents to file their written statement which was also dismissed by the learned Trial Court vide order dated 03.12.2015. However, respondent-Subhash Chander approached this Court by filing civil revision bearing CR-5080-2018 and vide order dated 08.08.2018, the passing of final order was stayed. The said civil revision was finally disposed of on 22.04.2022 and the trial Court was directed to proceed with the matter, subsequently, the petitioner moved an application for amendment of pleading under Order 6 Rule 17 read with Section 151 CPC and under Order 1 Rule 10 for impleading defendant No.6 in the main suit as necessary party, which was wrongly dismissed only on the ground of delay. She has further submitted that the delay is not detrimental to the interest of the respondents and it is necessary to amend the plaint and implead the persons to whom respondent No.8 has sold property during the pendency of the suit.

3. Learned counsel for the respondents has vehemently opposed the prayer of the petitioner on the ground that the doctrine of *lis pendence* will come into play and the pendency of the suit is hampering the interest of the respondents. He further submits that amendment cannot be allowed once the trial has commenced and also for the reason that the petitioner failed to demonstrate that there was due diligence on his part, as admittedly, in the cross-examination done by the respondent, the said sale deed was put to the petitioner and that itself is the ground for her knowledge and therefore filing an application after almost six years of having the knowledge of the sale deed, the same has been rightly dismissed by the Court below. Since, this Court vide order dated 27.03.2023 had directed the trial Court to adjourn the



matter beyond the date fixed before this Court and only on this ground the matter is being adjourned and is now fixed for 25.11.2024.

4. Heard learned counsel for the parties and considering above, the present petition is disposed of and the impugned order dated 08.02.2023 (Annexure P-7) is set-aside with the direction to the trial Court to proceed with the matter by granting permission to amend the plaint only to the extent of changing the name of respondent No.8, who shall be bound down by the stand already taken by respondent No.8 in the written statement. The plaintiff's evidence has to commence and the learned Trial Court would be at liberty to exercise its powers, if so required, by adding any additional issue and proceed with the matter in accordance with law and the petitioner is burdened with a cost of ₹5,000/- out of which ₹2,500/- will be remitted to Nishkam Sikh Welfare Council and remaining ₹2,500/- to be paid to the respondents as compensation.

5. Since the main case has been decided, pending miscellaneous application(s), if any, are also disposed of accordingly.

19.11.2024
Gaurav Sorot

(ALOK JAIN)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No