

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

123

2024:PHHC:044146

CR-2276-2019 (O&M)
Date of decision: 02.04.2024

SHINDER KAUR ..Petitioner

Versus

SHINGARA SINGH AND ORS ..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. N.S. Dandiwal, Advocate
for the petitioner.

ANIL KSHETARPAL, J(Oral)

CM-5889-CII-2024

- 1. Allowed as prayed for.
- 2. Annexure P-7 is taken on record.
- 3. CM stands disposed of.

Main case

- 4. The learned counsel representing the respondent has not been appearing for the last two dates of hearing.
- 5. Called thrice.
- 6. Again, the learned counsel representing the respondent is not present.
- 7. After hearing the learned counsel representing the petitioner, the following order was passed on 11.03.2024:-

“This is the plaintiff’s revision petition to challenge the correctness of the order dated 25.02.2019 passed by the trial court while dismissing his application for permission to amend the plaint. The plaintiff has filed a suit for the grant of decree of declaration that he is co-owner in the property and defendant no.1 to 7 have forged and fabricated the Will dated 18.08.2012 in favour of defendant no. 1 & 2 allegedly executed by Sh. Hazara

Singh. When the case was at the stage of final arguments, he had filed an application for permission to amend the plaint to seek an alternative relief of possession. At this stage, the learned counsel representing the petitioner prays for a short accommodation to substantiate that Sh. Hazara Singh was the exclusive owner and not a co-sharer in the joint land.

List on 02.04.2024, in the urgent list.”

8. The learned counsel representing the petitioner has produced a copy of jamabandi for the year 2010-2011, showing that Sh. Hazara Singh was exclusive owner in possession of the land.

9. It has been noticed that the trial Court has dismissed the application for permission to amend the plaint in order to seek alternative relief of possession only on the ground that the case is now fixed for final arguments.

10. In the opinion of this Court, the view taken by the trial Court is conservative. The case is pending at the stage of trial. The plaintiff only wants to add additional relief without changing the basic structure of her case. She has already filed a suit for grant of decree of declaration that she is owner in possession of the property. Now, she wants to add alternative relief of possession if the Court finds that she is not in possession. Such amendment should have been allowed by the trial Court even if the case was fixed for arguments because neither any substantive amendment is required to be made in the plaint nor any additional issue is required to be settled.

11. Keeping in view the aforesaid facts, the revision petition is allowed. The order dated 25.02.2019 is set aside. The plaintiff shall be permitted to file the amended plaint and thereafter, the trial Court will

proceed to decide the suit because neither any formal reply nor any evidence is required.

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

April 02nd, 2024

(ANIL KSHETARPAL)
JUDGE

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