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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

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Date of decision: 13.05.2024

Darshana Devi

...Petitioner.

Versus

Sunita Devi and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. Parminder Singh, Advocate
for the petitioner.

Sukhvinder Kaur, J.

By way of present revision petition, the petitioner has challenged order dated 04.03.2024 (Annexure P8), passed by District Judge, Karnal, vide which application under Order 6 Rule 17 CPC for amendment of the plaint, was allowed.

2. The brief facts relevant for adjudication of the present revision petition are that the plaintiff/ respondent No.1 filed a suit for possession with consequential relief of permanent injunction for possession of the Bara in dispute from the defendants on the basis of sale deed vasika No.106/1 dated 21.04.2014. The petitioner alongwith proforma respondent on notice appeared and submitted that plaintiff/ respondent No.1 had filed the collusive suit against defendants No.1 to 5 and that the plaintiff/ respondent No.1 had wrongly averred before the Court that she is in possession. The

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defendant/ petitioner submitted that they were in possession of the suit land on basis of agreement to sell dated 01.10.1979. The trial Court vide judgment and decree dated 10.08.2018 had dismissed the said suit and returned the finding that the plaintiff had filed the collusive suit against defendants No.1 to 5 and later on petitioner had joined on filing application under Order 1 Rule 10 CPC. Respondent No.1 on the basis of the collusive suit got the ad interim injunction in her favour. Respondent No.1 on the basis of the application moved for protection of her possession, forcibly took the possession of the property of the petitioner. The petitioner moved the application under Order 144 read with Section 151 CPC for restitution of the possession, which was allowed vide order dated 31.03.2016 and possession of the suit property comprising in khasra No.453 was ordered to be restored back to the petitioner. Thereafter, the trial Court considered the entire matter and returned the finding that respondent No.1 was never in possession of the suit land and Sunil Kumar was not entitled to get the land transferred in the name of respondent No.1. It was held that the petitioner is owner in possession of the suit land. Respondent No.1 preferred the appeal and the same is pending adjudication before the First Appellate Court, Karnal. After three years of the pendency of the appeal respondent No.1 moved application under Order 6 Rule 17 CPC for amendment of the plaint on the ground that the khasra number of the suit land has been wrongly mentioned in the plaint due to typical error, which came to the knowledge of the counsel for respondent No.1 while preparing the case for final arguments. The petitioner filed reply to the application, while opposing the

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said amendment. Trial Court vide order dated 04.03.2024 allowed the application for amendment of the plaint. Hence, the petitioner has knocked the doors of this Court by way of filing the present revision petition.

3. Learned counsel for the revision petitioner has contended that the trial Court has failed to analyse that the reason for moving the said application is to seek opportunity to fill up the lacunas as pointed out by the trial Court in the judgment. The application for amendment has been allowed after the entire evidence has been led before the trial Court, in reference to the said khasra number.

4. I have heard learned counsel for the petitioner and have gone through the relevant record.

5. The perusal of the application filed under Order 6 rule 17 CPC reveals that it has been filed on the ground of typographical mistake regarding khasra number of the suit land occurred. In para No.2 of the plaint it has been wrongly mentioned as khasra No.735, though it should have been mentioned as khasra No.453. Copy of the original plaint has also been perused in which the khasra number has been correctly mentioned as khasra No.453. So when in the original plaint the correct khasra No.453 has been mentioned, then it appears that inadvertently due to typographical mistake khasra number was incorrectly mentioned as 735 instead of 453 as mentioned in the original plaint. So, the amendment sought by the petitioner is essential for just decision of the case and it is not likely to change the nature of the suit. Moreover, the oral evidence already adduced is also to be appreciated in the light of the documentary evidence.

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6. There is no illegality or infirmity in the impugned order and no interference therewith is called for while exercising the revisional jurisdiction. The present revision petition being bereft of any merits stands dismissed.

7. All pending applications, if any, also stand disposed of accordingly.

(SUKHVINDER KAUR)
JUDGE

13.05.2024.
komal

Whether speaking/ reasoned	:	Yes/ No
Whether Reportable	:	Yes/ No