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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

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CR-3076-2024 (O&M)
Date of decision: 20.05.2024.

Santokh Singh

...Petitioner.

Versus

Gurnam Singh and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. Vishal Goel, Advocate
for the petitioner.

Sukhvinder Kaur, J.

By way of present revision petition, the petitioner has challenged order dated 15.04.2024 (Annexure P5) passed by learned trial Court, vide which the application under Order 6 Rule 17 read with Section 151 CPC filed by respondent No.1/ plaintiff for amendment of the plaint, was allowed.

2. The relevant facts for adjudication of the present revision petition are that respondent No.1/ plaintiff filed a civil suit No.1521 of 2021 titled as 'Gurna, Singh Vs. Balwinder Kaur and others' seeking relief of possession by way of partition by metes and bounds of 1/4th share of the plaintiff of the shop as detailed in the head note of the plaint. It was alleged that Megh Singh, Ram Singh, Gurnam Singh, Karnail Singh sons of Sadhu Singh were owners in joint possession in equal shares. Out of them, Megh

Singh, Ram Singh, Karnail Singh had died and only Gurnam Singh son of Sadhu Singh is alive. After the death of Megh Singh son of Sadhu Singh his 1/4th share was inherited by his only daughter Balwinder Kaur. Ram Singh has also died and his 1/4th share has been inherited by his son Santokh Singh, his daughter Neeta and his wife Rani in equal shares. Karnail Singh son of Sadhu Singh has also died and his 1/4th share has been inherited by his legal heirs Paramjit Kaur (daughter), Gurmeet Singh, Sukhdev Singh (sons), Baljinder Kaur his widow. His third son Malkiat Singh has died and his share has been inherited by his widow Meena Devi and two minor daughters Jassan and Khushi, who are defendants No.9 and 10 and are living with their mother defendant No.8 and are being looked after by her. The plaintiff requested the defendants to get the joint property partitioned by metes and bounds and deliver the possession of 1/4th share of the property to the plaintiff but they did not accede to his request. Hence, leading to filing of the present suit.

3. Defendants No.3 to 5 filed written statement to the said suit while alleging that the plaintiff/ respondent No.1 has no relation with Sadhu Singh son of Munshi Ram, Ram Singh son of Sadhu Singh. It was also denied that the plaintiff/ respondent No.1 was having any relation with defendants No.3 to 5. It was alleged that it has been falsely claimed in the suit that the suit property was jointly owned and possessed by four sons of Sadhu Singh and plaintiff/ respondent No.1 is not co-sharer/ co-owner of the suit property. Defendants No.4 and 5 have transferred their share in the property in question in favour of defendant No.3 vide vasika No.5716 dated 18.07.2022.

4. Thereafter, the plaintiff/ respondent No.1 filed application under Order 6 Rule 17 CPC for amendment of the plaint for including the relief of declaration that the aforesaid vide vasika No.5716 dated 18.07.2022 is illegal, null and void and is not binding upon the rights of the plaintiff/ respondent No.1, executed by defendants No.4 and 5 in favour of defendant No.3.

5. Reply to the said application was filed by the petitioner and by defendants No.4 and 5. Vide impugned order dated 15.04.2024, the said application has been allowed by the trial Court. Hence, the petitioner has knocked the doors of this Court by way of filing of the present revision petition.

6. Learned counsel for the petitioner has contended that the application for amendment filed by plaintiff/ respondent No.1 was not maintainable as in the written statement filed by the petitioner and defendants No.4 and 5, they have given reference of jamabandi and the vasika No.5716 dated 18.07.2022 and thereafter, the plaintiff/ respondent No.1 filed the application for amending the suit on the basis of these documents. He has argued that any person can obtain copy of jamabandi and it is also available online, so plaintiff/ respondent No.1 should have checked the revenue record before filing the suit. He has further contended that the plaintiff cannot seek relief by way of amendment as this relief was available to him even at the time of filing of the suit. He has also submitted that the plaintiff has claimed in the present suit that he is son of Sadhu Singh, but he has not referred to a single document to prove the same.

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

8. As per provisions of Order 6 Rule 17 CPC at any stage of proceedings either of the parties may be allowed by the Court to alter or amend his/her pleadings as may be necessary for the purpose of determining the real question in controversy between the parties. Though, as per the proviso, no application for amendment shall be allowed after the trial has commenced but it has also been provided that such an amendment can be allowed if Courts comes to the conclusion that in spite of due diligence, the party could not raise the matter before the commencement of the trial.

9. As alleged in the application moved for seeking the amendment, the application for amendment of the plaint was filed as in the written statement filed by defendants No.3 to 5, it was averred about the ownership of Ram Singh son of Sadhu Singh and about transferring of their share by defendants No.4 and 5 in favour of defendant No.3, vide vasika No.5716 dated 18.07.2022.

10. So, now by way of amendment the relief of declaration has been sought, that document vasika No.5716 dated 18.07.2022 executed by defendants No.4 and 5 in favour of defendant No.3 is illegal, null and void and not binding upon the rights of the plaintiff and the revenue entries relating the above said document and in favour of Ram Singh son of Sadhu Singh including mutation etc. are illegal, null and void, without any right and without any basis and are not binding upon the rights of the plaintiff. So, this amendment is based on a subsequent event. This amendment

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appears to be necessary for adjudicating the real controversy between the parties, otherwise it will lead to multiplicity of proceedings.

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

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

(SUKHVINDER KAUR)
JUDGE

20.05.2024.
komal

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