

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

123

CR-3482-2024

Date of decision: 31.05.2024

ATMA SINGH (DECEASED) THROUGH LRS ..Petitioner

Versus

BANT SINGH @ BALWANT SINGH & ANR ..Respondents

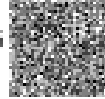
CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Jagtar Kureel, Advocate
for the petitioner.

ANIL KSHETARPAL, J(Oral)

1. In this revision petition, the correctness of the trial Court's order permitting the plaintiff to amend his prayer has been challenged by the defendants.
2. In substance, the plaintiff while filing the suit has prayed for the following reliefs:-

"So, it. is therefore prayed that Suit for Declaration to the effect that the plaintiff is still joint owner in possession with defendant no. 2 up to the extent of 29/44 share out: of property/land comprised in Kh/Kh no. 118/102/120, Khasra nos. 14//10/1(0-17), 41/0-12), 42 10-15),. kitte 3,. Total area 2k-4m, as per Jamabandi for the year 2015-16, situated at village Boopnagar, Tehsil Kharar, District Mohali and there is no. legal effect of mutation no. 1346 (Correction i.e. "sehat Indraaj")), got entered in the jamabandi for the year 2000-01 by the defendant no. 1 in connivance with revenue authorities and same is liable to be set-aside being illegal and entries in the revenue record are liable to be corrected accordingly and the defendant no:1 is having no right or title in the suit property And Further Suit for Declaration to the effect that that the Judgment and decree dated 3.1.2015 passed by Sh. Bhupinder Mittal Civil Judge (Jr. Dvsn) Kharar in the suit Titled as "Atma Singh Vs Surjit Kaur etc." for Separate Possession qua the suit property i.e. nos.14//10/1(0-17), 41(0-12), 42 (0-15), kitte 3, Total area 2k-4m, as. per Jamabandi for the year 2015-16, situated at village Bhoopnagar, Tehsil Kharar, District



Mohali, are also liable to be set-aside being based upon fraud of defendant no: 1 and also on the basis of wrong entries qua the suit land in favour of defendant no. 1 in the Jamabandi for the year 2005-06 and further suit for declaration to the effect that subsequent Partition proceedings including the Final Decree/Order dated, 28.2.2018 passed by the Court of Ms. Jublee Civil Judge(Jr. Dvsn) Kharar, qua the suit property i.e: property/land comprised in Kh/Kh no. 118/102/120, Khasra nos. 14//10/1 (0-17), 41(0-12), 42 (0-15), kitte 3, Total area 2k-4m, as per Jamabandi for the year 2015-16, situated at village Bhoopnagar, Tehsil Kharar, District Mohali, with regard to decree dated 3.1.2015, passed by Sh. Bhupinder Mittal Civil Judge(Jr. Dvsn) Kharar is/are also liable to set-aside in the same manner And For Permanent injunction restraining defendant no. 1 from alienating any part of the suit land i.e. i.e. property/land comprised in Kh/Kh no.; 118/102/120, Khasra nos.14//10/1 (0-17), 41(0-12), 42' (0-15), kitte 3, Total area 2k-4m, as per Jamabandi for the year 2015-16, situated at village Bhoopnagar,. Tehsil Kharar, District Mohali, to any other person by way of sale, mortgaged, transfer, lease etc. AND For Permanent injunction restraining defendant no.1 and his agents from interfering into the suit land i.e. property/land comprised in Kh/Kh°no. 118/102/120, Khasra nos. 14//10/1(0-17), 41(0-12), 42 (0-15), kitte 3, Total area 2k-4m, as per Jamabandi for the year 2015-16, situated at village Bhoopnagar, Tehsil Kharar, District Mohali, in any manner illegally and forcibly, may kindly be decreed in favour of plaintiffs against the defendants, in, the. interest of justice.”

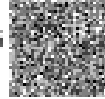
3. When the suit was at a preliminary stage, he filed an application under Order VI Rule 17 of the Code of Civil Procedure, 1908, to amend the prayer clause to seek the following additional prayers:-

“a. Further suit for Declaration to the effect that mutation no. 1346 along with order dt. 1.4.2003 passed by AC-1st Class, Kharar, qua the suit land, are illegal null and void being illegal, without affording hearing to the plaintiff and having no effect to the legal rights of the plaintiff over the suit land as per mutation no. 1288.

b. The prayer clause is to be amended accordingly.

c. The following paragraph no. 6-A to be added which will be as under:-

6-A. That the defendant no. 1 in connivance with the revue staff firstly got passed order dt. 1.4.2003 qua the suit land by challenging the mutation no. 1288 of



partition against the plaintiff without giving proper hearing and notice and alter on got sanctioned mutation no. 1346 on the basis of same, thus both the order dt. 1.4.2003 and mutation no. 1346 are illegal null and void moreover, the AC-1% class was legally not entitle to make any order inconsistent with the mutation no. 1288 after passing of more than 3 years, thus plaintiff is entitle for declaration.”

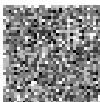
4. The trial Court has allowed the application. The correctness of the aforesaid order is challenged before this Court.

5. The learned counsel representing the petitioner submits that the order passed by the Assistant Collector, Ist Grade, on 01.04.2003, is sought to be challenged in the year 2022, hence, the same is beyond the prescribed period of limitation. He submits that the Assistant Collector, Ist Grade, Kharar, ordered partition of the agricultural land on 01.04.2003, with the consent of the plaintiff. Hence, the plaintiff was in the knowledge of the same.

6. This Court has considered the submissions of the learned counsel representing the petitioner.

7. At this stage, it would not be appropriate to express any opinion on the merits of the case. The plaintiff while filing the suit has claimed various reliefs including declaration to the effect that he is joint owner in possession with defendant No.2. He has also prayed for declaration that the judgment and decree dated 03.01.2015 passed in the civil suit titled as “Atma Singh Vs. Surjit Kaur”, dividing the non-agricultural land is illegal. He has also sought declaration that the partition proceedings including the final decree are liable to be set aside. In such circumstances, the trial Court has not erred in allowing the plaintiff’s application filed to amend his prayer.

The petitioner shall have liberty to pray for culling out a distinct and



separate issue on the question that amendment is beyond the prescribed period of limitation.

8. At this stage, the learned counsel representing the petitioner submits that the trial Court has not granted an opportunity to the petitioner to file a reply to the amended plaint.

9. Keeping in view the aforesaid facts, the petitioner may file an application for filing a reply before the trial Court, which shall be considered and decided within a period of 15 days, from the date of this order.

10. With these observations, the revision petition is disposed of.

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

May 31st, 2024
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(ANIL KSHETARPAL)
JUDGE

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