



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-3452-2024(O&M)
Date of Decision: July 12, 2024

Smt.Raj Bala
...Petitioner

Versus

Anoop Singh and others
...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

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

Mr.Mohit Garg, Advocate
for the respondents/caveators.

ARCHANA PURI, J.

CM-11627-CII-2024

The present application has been filed to place on record interim orders as Annexure R-1.

In view of the averments made in the application, the same is allowed and the requisite documents are taken on record.

Main case

Challenge in the present revision petition is to the order dated 14.05.2024 (Annexure P-7) passed by learned trial Court, whereby, an application for seeking amendment of written statement, filed at the instance



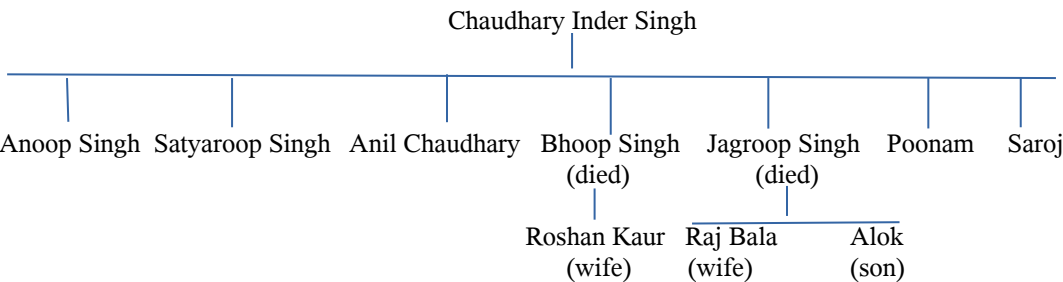
of the petitioner-defendant No.1 was dismissed.

In pursuance of the notice issued, the respondents-plaintiffs/caveators made appearance through counsel.

Learned counsel for the parties heard.

Initially, respondents-plaintiffs filed a suit against the petitioner and her son Alok, thereby, seeking partition of the house, as detailed in the headnote of the plaint, copy whereof is Annexure P-1. As evident from the pleadings, both the parties are related to each other.

For the convenience of discussion, the pedigree table, as deciphered, is as herein given:-



Thus, the parties are related to each other, as spelt aforesaid. However, it is pertinent to mention that during the pendency of the suit, when it was at the stage of recording of the defendants’ evidence, the petitioner-defendant No.1, filed an application for seeking amendment of the written statement. She, by virtue of the proposed amendment, intended to bring on record the Will dated 15.02.2000, which was registered on 16.01.2023 and also wanted to bring on record mutation No.34415. However, it was her claim that these documents were not available with her at the time of filing of the written statement. Also, she took the plea that no

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prejudice will be caused to the plaintiffs, if the application is allowed.

On the other hand, in reply, there was strong resistance to the proposed amendment.

The copy of the application and the reply are Annexures P-5 and P-6 respectively.

No doubt, as submitted by learned counsel for the petitioner that as compared to the amendment of the plaint, the Courts remain lenient with regard to amendment of the written statement, but however, there are various circumstances, which ought to be taken into consideration, while allowing the amendment of the written statement.

Be it noted that the suit was filed on 06.01.2022. Written statement was filed by the petitioner-defendant No.1 on 01.08.2023. Furthermore, issues were framed on 01.09.2023. The evidence of the plaintiffs was recorded and it was closed on 08.12.2023. Thereafter, the case was fixed for defendants' evidence. When the last opportunity was granted, for recording of the evidence of the defendants on 04.03.2024, the application for proposed amendment was filed.

No doubt, the stage, at which the application for seeking amendment was filed, can also be overlooked, but at the same time, there are various other circumstances, spelt out, which reveals about lack of bonafides, on the part of the petitioner-defendant No.1. The Will, which is intended to be relied upon by virtue of amendment of the written statement, is dated 15.02.2000. It was registered on 16.01.2023 and on the basis thereof, mutation was sanctioned on 31.05.2023.



Undisputedly, the said Will was got registered at the instance of the present petitioner. Taking the same into consideration, it is quite obvious that at the time, when the written statement was filed by petitioner-defendant No.1, on 01.08.2023, she was having knowledge about the aforesaid Will. Also, during the course of making submissions, at the behest of the petitioner, it came forth that the petitioner was in possession of the Will, till the time of its registration and in these circumstances, it cannot be said the petitioner was not having knowledge of the said documents.

Leave aside the same, the written statement at the behest of the petitioner-defendant No.1 is Annexure A-1. Close perusal of the same reveals that the petitioner had taken a plea that after the death of Inder Singh, her father-in-law, who is alleged executant of the Will in question, a domestic partition of moveable and immoveable assets had taken place, when he was alive, about 25 years ago. In the written statement, the petitioner had not made mention of any Will, allegedly executed by Inder Singh, her father-in-law, in her favour.

In the light of the aforesaid fact situation and more particularly, considering the stage of the case, when it was for the recording of the defendants' evidence and that too, when the last opportunity was granted, the application for seeking amendment of the written statement was filed. In the given circumstances, in any manner, it cannot be said that the intention of the petitioner is bonafide. Malafide, on her part is writ large. Considering the same, no case is made out for amendment of the written statement.



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Thus, learned trial Court has correctly dismissed the application. The impugned order merits no interference. Hence, the revision petition sans merit and the same is hereby dismissed.

July 12, 2024
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No