

2024:PHHC:092459



125 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-3559-2024 (O&M)
Decided on:-23.07.2024

Parveen Goyal and anotherPetitioners..

vs.

Raghubir SinghRespondent.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Avnish Mittal, Advocate with
Mr. Vaibhav Sehgal, Advocate,
for the petitioners.

Mr.G.S. Sandhu, Advocate,
for the respondent.

HARKESH MANUJA J. (Oral)

1. By way of present revision petition filed under Article 227 of the Constitution of India, challenge has been laid to an order dated 28.03.2024 (Annexure P-9) passed by the Court of Civil Judge (Junior Division), Ludhiana, whereby, an application filed under Order 6 Rule 17 CPC read with Section 151 CPC, at the instance of respondent-plaintiff, seeking amendment of plaint, stands allowed.

2. In the present case, originally, the respondent-plaintiff filed a suit for permanent injunction claiming himself to be the owner in possession of property bearing M.C.No.B-XIX-1383, measuring 973 sq. yards, situated at Haibowal Khurd, Tehsil & District Ludhiana, on the basis of sale deed dated 01.04.1996.

In the written statement, stand taken by the petitioners-defendants was that the predecessor-in-interest of the respondent-plaintiff, namely, Kishan Lal was having no right in the suit property and thus, was not competent to execute any sale deed in his favour, besides even having no right to transfer possession thereof, thus, the title as well as possession of the respondent-plaintiff over the suit property was specifically denied.

3. After adjudication upon the application under Order 39 Rules 1 & 2 CPC and also post framing of issues, an application seeking amendment of plaint came to be filed on behalf of respondent-plaintiff seeking amendment of plaint while seeking declaration qua his ownership over the suit property, besides even pleading that during pendency of the suit, the petitioners-defendants took forcible possession of the property in question from respondent-plaintiff.

The aforementioned application was opposed at the instance of petitioners-defendants.

4. The Trial Court vide order dated 28.03.2024, allowed the prayer made on behalf of the respondent-plaintiff while permitting him to amend the plaint so as to include the relief of declaration as well as possession. Hence, the present petition.

5. Assailing the aforesaid order, learned counsel for the petitioners submits that the petitioners-defendants right from the beginning through their written statement raised specific plea about disputing the ownership as well as possession of respondent-plaintiff over the suit property, however, no prayer for declaration qua ownership was ever claimed by respondent-plaintiff.

He further submits that the application now filed at the instance

of respondent-plaintiff seeking amendment of plaint, after adjudication upon the miscellaneous appeal filed at the instance of petitioners-defendants regarding adjudication qua application under Order 39 Rules 1 and 2 was merely an after-thought and thus, order passed by the trial Court was unsustainable in law.

6. On the other hand, learned counsel representing respondent-plaintiff submits that the amendment qua relief of possession was based on subsequent developments/facts, whereas, the same qua declaration was merely clarificatory, as the ownership qua the disputed property was in any case claimed by the respondent-plaintiff in the original plaint and thus, no interference is warranted in the impugned order.

7. I have heard learned counsel for the parties and gone through the paper book. I am unable to find substance in the submissions made on behalf of the petitioners.

8. A perusal of the original plaint shows that the claim in the suit for permanent injunction filed on behalf of the respondent-plaintiff was based on title and possession and thus, the amendment qua inclusion of the relief of declaration was merely clarificatory in nature. As regards the amendment regarding the relief of possession; the same being based on subsequent development/facts, it was essential for the trial Court to have granted the same, so as to enable the respondent-plaintiff to get his rights adjudicated upon in a final and conclusive manner. Be that as it may, the suit is still at the initial stage and the parties are yet to start with their evidence, in such circumstances, no interference is called for in the discretion exercised by the trial Court while allowing respondent-plaintiff to amend his plaint, the same being essential for the conclusive determination of the

parties to the suit.

9. In view of the aforesaid discussion and finding no illegality or perversity in the impugned order dated 28.03.2024, the present petition, is thus, dismissed.

10. However, it is made clear that any observation made in this order shall not be construed as an expression of opinion on the merits of the suit.

11. Pending application, if any, also stands disposed of.

23.07.2024

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(HARKESH MANUJA)
JUDGE

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