



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

Civil Revision No. 3953 of 2024 (O&M)
Date of Decision: 17.07.2024

Balvir Singh

..... Petitioner

Versus

Bhura Singh @ Bharpur Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. J.K. Singla, Advocate and
Ms. Suman Rani, Advocate
for the petitioner-defendant.

HARKESH MANUJA, J. (ORAL)

The petitioner-defendant, by way of present revision petition, seeks setting aside of an order dated 03.05.2024 passed by learned Additional Civil Judge (Senior Division), Mansa (**hereinafter to be called as “trial Court”**), whereby an application filed at the instance of respondent-plaintiff seeking amendment of plaint so as to include the relief of declaration in addition to permanent injunction already claimed therein, stands allowed.

[2] Briefly stating, the respondent-plaintiff filed a suit for permanent injunction claiming himself to be one of the co-sharers in the property in question alongwith one Gurdial Singh and Gurnam Singh with a prayer for restraining the petitioner-defendant from taking forcible possession thereof. The suit was based on jamabandi entries for the year 2020-21. Upon notice, petitioner-defendant filed written

statement while stating that the respondent-plaintiff was not in possession of the suit property and entry in *farad badar* No. 10 dated 17.10.2022 was made in this regard by the revenue officials followed by the same been incorporated in the jamabandi entries and thus, the suit was not maintainable.

[3] Issues in the suit were framed by the trial Court on 24.01.2023. Realizing that in the absence of any challenge to the entries of *farad badar (supra)*, which resulted into change of entries regarding possession in the revenue record, an application seeking amendment of the plaint came to be filed at the instance of respondent-plaintiff, which was opposed by the petitioner-defendant. The trial Court, vide order dated 03.05.2024, allowed the same, while permitting the respondent-plaintiff to amend the plaint by adding the prayer for declaration assailing the *fard badar (supra)*.

[4] Impugning the aforesaid order dated 03.05.2024, learned counsel for the petitioner submits that as a result of passing of the impugned order, the entire cause of action in the suit for permanent injunction filed at the instance of respondent-plaintiff, has been changed, which is impermissible in law. He also submits that with the change of revenue entries in terms of *fard badar (supra)*, the respondent-plaintiff not being recorded in possession of the suit property in question, the suit for permanent injunction filed at his instance could not have been entertained being not maintainable.

No other arguments have been addressed on behalf of the petitioner.

[5] After hearing learned counsel for the petitioner and having gone through the paper-book, I am unable to find substance in the submissions made on behalf of the petitioner.

[6] In the present case, once *fard badar (supra)* has resulted into change of entries in the revenue record *qua* possession over the property in question, it becomes imperative for the respondent-plaintiff to assail the same and for the said reason only the application for seeking amendment of plaint, so as to incorporate the relief of declaration has been prayed. In any case, allowing the application for amendment of plaint so as to permit respondent-plaintiff to include the prayer for declaration *qua* challenge to *fard badar (supra)* is nowhere going to change the cause of action or even the nature of suit, as while granting permanent injunction, the Court has to definitely grant declaration regarding any semblance of right vesting with the parties to the suit in the property in question.

[7] Furthermore, in the humble opinion of this Court, the contention raised on behalf of the petitioner-defendant that once with the change of revenue record, the respondent-plaintiff did not remain recorded to be in possession of the property, the suit was not maintainable; rather this submission goes against the petitioner-defendant himself, as the change of entries in the jamabandi through *fard badar (supra)* and that too without any notice to the effected party

is needed to be assailed in the suit, while seeking declaration against it.

[8] Accordingly, in view of the discussion made hereinabove, finding no merits in the present revision petition, the same is hereby **dismissed**.

[9] Pending miscellaneous application(s), if any, shall also stand disposed off.

July 17, 2024
'dk kamra'

(HARKESH MANUJA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No