

2024:PHHC:061509

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-4311-2022(O&M)

Date of Decision: May 03, 2024

Hajrat Ali and others

...Petitioners

Versus

Daya Nand and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.S.L.Barwala, Advocate
for the petitioners.

Mr.Shalender Mohan, Advocate
for respondents No.3 and 4.

ARCHANA PURI, J.

Challenge in the present petition is to the order dated 17.09.2022 passed by learned trial Court, whereby, an application under Order VI Rule 17 read with Section 151 CPC, for amendment of plaint, was allowed.

The facts, as culled out from the paperbook are as follows:-

That, initially, respondents No.1 to 3 (plaintiff before learned trial Court) had filed a suit for seeking possession of the land, as detailed in the headnote of the plaint. The copy of the plaint is Annexure P-1. For the convenience of discussion, the headnote of the plaint, is reproduced, as herein given:-

“Suit for passing a decree for possession to the extent of 059

Sq.Yards over land of Khasra No.43/4/1/1 & 43/4/1/2 (East 9, West 9.5, South 57, North 60.5) equal to 0-2 Marla, which is in illegal possession of the defendant no.1 who has constructed his residential house on said land and to the extent of 148 Sq.Yards equal to (0-5) Marla (East 24 West 27.5 South 48 North 57) which land comprised vide Khewat no.194/172 min Khatoni No.220 & Khewat No.192/170 min Khatoni No.218, vide Jamabandi for the years 2011/2012 of village Kagsar Tehsil Narnaund Distt. Hisar owned by the plaintiffs is illegally & unlawfully possessed by the defendant No.2 and 4 who have constructed their house thereon said lands of the plaintiffs, by directing the defendants to remove their illegal possession and to deliver the vacant possession of the said land to the plaintiff.”

During the pendency of the suit, at the stage of recording of the evidence of the plaintiffs, an application for seeking amendment of the plaint was filed, wherein, it was asserted that description of the property, inadvertently/due to clerical mistake, has been mentioned in wrongful manner and the same is required to be corrected.

However, the petitioners-defendants, in reply, had resisted the claim of the respondents-plaintiffs.

After hearing learned counsel for the parties, learned trial Court had allowed the application, subject to payment of Rs.1000/- as costs, to be paid to the defendants.

Feeling aggrieved by the amendment having been so allowed, the petitioners-defendants have filed the present revision petition.

Learned counsel for the parties heard.

Before proceeding further, it is essential to make reference to the decision rendered by the Hon'ble Supreme Court in *Life Insurance Corporation of India vs. Sanjeev Builders Private Limited and another, 2023(1) RCR (Civil) 851*, wherein, the law relating to the amendment of pleadings was summed up in eleven points and specifically, few of the relevant points, for allowing the amendment, are as follows:-

- All amendments are to be allowed, which are necessary for determining the real question in controversy provided, it does not cause injustice or prejudice to the other side.

Furthermore, a prayer for amendment is to be allowed:-

- if the amendment is required for effective and proper adjudication of the controversy between the parties;
- where the amendment would enable the court to pin-pointedly consider the dispute and would aid in rendering a more satisfactory decision, the prayer for amendment should be allowed;
- Amendment may be justifiably allowed, where it is intended to rectify the absence of material particulars in the plaint;

It was also observed that where the amendment sought is only with respect to the relief in the plaint and is predicated on facts which are already pleaded in the plaint, ordinarily the amendment is required to be allowed.

In the light of the aforesaid dictum, the amendments, which are essential for the proper adjudication of the controversy, between the parties, can be allowed, at any stage, unless and until, it causes prejudice to either side.

Learned trial Court has specifically observed that the amendment sought is due to clerical mistake as Khasra No.43//4/1/2 was

wrongly mentioned against 0-2 Marla and Khasra No.43//4/1/1 has been left to be mentioned against property No.0-5 Marla and in the headnote of the plaint, Khewat No.194//172 and Khatoni No.220 is to be deleted. Looking at the headnote of the plaint, which has been reproduced in earlier portion of the order, it is evident that it is probably due to clerical mistake/computer error that it is now required to be rectified about the description of the property, though, the identity of the land, as such, is not being changed. It has been appropriately observed by learned trial Court that the said amendment shall be helpful to the Court for proper adjudication of the suit. It is more of a clarificatory in nature, thereby, specifying the property, for which the suit for possession has been filed.

Considering the same, the proposed amendment, is bound to enable the Court to pin-pointedly consider the dispute between the parties and to render a more satisfactory decision. It is intended to rectify the absence of material particulars in the plaint.

In the given circumstances, learned trial Court had appropriately allowed the amendment of the plaint, which, as such, does not cause any prejudice to the petitioners-defendants. As such, the impugned order, brooks no interference by exercise of revisional jurisdiction of his Court.

Hence, the present revision petition is hereby dismissed.

May 03, 2024
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No