



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

251

CR No.1612 of 2021

Date of Decision: 21.01.2025

Babita Devi

...Petitioner

V/s

Vikram Singh

...Respondent

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. R.S. Budhwar, Advocate, for the petitioner.

Mr. Vijay Pal, Advocate, for the respondent.

VIKRAM AGGARWAL, J (ORAL)

The present revision petition is directed against the order dated 25.03.2021 (Annexure P-8) passed by the Court of learned Civil Judge (Jr. Divn.), Kurukshetra, vide which the application filed by the respondent-plaintiff under Order 6 Rule 17 of the Code of Civil Procedure, 1908 (for short the "CPC") was allowed.

2. A suit for symbolic possession by way of specific performance of agreement to sell dated 15.05.2014 (Annexure P-5) was filed by the respondent-plaintiff. The suit was resisted by way of written statement (Annexure P-2), in which the execution of the agreement to sell was denied and it was averred that the document relied upon by the plaintiff was a forged and fabricated document. Subsequently, an application dated 21.01.2019 (Annexure P-3) under Order 6 Rule 17 CPC was moved by the respondent-plaintiff seeking amendment to the effect that the date of the agreement to sell be read as 10.06.2014 instead of 15.05.2014. By way of the impugned order,



the said application was allowed leading to the filing of the present revision petition.

3. I have heard learned counsel for the parties.

4. Learned counsel for the petitioner submits that the order dated 25.03.2021 is not sustainable, for, the respondent-plaintiff could not have been permitted to fill up the lacunae by way of amendment. Reference has been made to the agreement to sell dated 15.05.2014, which has been annexed with the petition as Annexure P-5. It has been submitted that the date of purchase of the stamp papers was 10.06.2014 and when an objection was raised in the written statement, the application for amendment was moved.

5. On the other hand, learned counsel representing the respondent-plaintiff submits that there is no illegality in the order dated 25.03.2021, as the case is at its initial stage and only the date of the agreement is to be changed. He submits that the date '15.05.2014' was mentioned as a result of a typographical error and the trial Court rightly permitted the amendment.

6. I have considered the submissions made by learned counsel for the parties.

7. Order 6 Rule 17 lays down as under:-

“The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties:

Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.”

8. The law regarding amendment of pleadings was considered by the Supreme Court of India in the case of ***Revajeetu Builders & Developers***



Vs. Narayanaswamy & Sons & others, 2010(1) RCR (Civil) 27, wherein the guidelines were laid down:-

“67. On critically analyzing both the English and Indian cases, some basic principles emerge which ought to be taken into consideration while allowing or rejecting the application for amendment.

(1) Whether the amendment sought is imperative for proper and effective adjudication of the case?

(2) Whether the application for amendment is bona fide or mala fide?

(3) The amendment should not cause such prejudice to the other side which cannot be compensated adequately in terms of money;

(4) Refusing amendment would in fact lead to injustice or lead to multiple litigation;

(5) Whether the proposed amendment constitutionally or fundamentally changes the nature and character of the case? and

(6) As a general rule, the court should decline amendments if a fresh suit on the amended claims would be barred by limitation on the date of application.”

9. The impugned order shall have to be tested on the touchstone of the principles enunciated by the Supreme Court of India in the aforesaid judgment, as also keeping in view the statutory provisions. In the considered opinion of this Court, the amendment was not *bona fide* and was sought to be made only to fill up the lacunae. It has to be borne in mind that the date of agreement to sell was mentioned in the plaint as 15.05.2014. A specific plea was raised by the petitioner-defendant that the document was a forged and fabricated document. Further, the date of purchase of the stamp papers is shown to be 10.06.2014. Still further, in the legal notice issued by the plaintiff also, the date of the agreement to sell is mentioned as 15.05.2014. Under the circumstances, allowing the amendment would change the entire nature of the suit and also permit the respondent-plaintiff to fill up the lacunae, which is not permissible.



10. In view of the aforementioned facts and circumstances, the present revision petition is allowed, the impugned order dated 25.03.2021 (Annexure P-8) passed by the Court of learned Civil Judge (Jr. Divn.), Kurukshetra is set aside and the application for amendment stands dismissed.

Pending application(s), if any, shall also stand disposed of.

(VIKRAM AGGARWAL)
JUDGE

January 21, 2025

vcgarg

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No