

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

228

**CR-5983-2019 (O&M)
Date of decision : 07.03.2025**

Balraj Singh @ Balraj Singh Randhawa Petitioner

versus

Manjinder Kaur and others Respondents

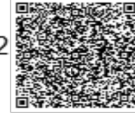
CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Gagandeep Singh Sirphikhi, Advocate and
Mr. Aman Raj Bawa, Advocate
for the petitioner.

Mr. B.S. Jaswal, Advocate
for respondent No.1.

PANKAJ JAIN, J. (Oral)

1. Challenge is to be order dated 09.05.2019 passed by Additional Civil Judge (Sr. Divn.), Baba Bakala whereby application filed by the plaintiff seeking amendment of the plaint stands rejected.
2. Plaintiff filed suit for partition. Defendants No.1 to 4 in their joint written statement propounded a conveyance deed in their favour dated 30.06.2006. An application was moved by the plaintiff under Order XI Rule 14 of the Code, requesting the Court to direct defendant No.1 to produce power of attorney dated 08.02.1996, on the basis of which conveyance deed was executed. Thereafter, the present application seeking amendment of the plaint was moved, whereby amendment is being sought in the plaint as well as prayer clause introducing challenge to the conveyance deed propounded by the defendants. The application seeking amendment of the plaint was

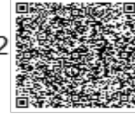


contested by the defendants claiming that the same was moved after the trial has already commenced and the issue stands framed. It was further claimed that the addition of relief seeking decree of declaration shall amount to altering the nature of the suit. Trial Court while dismissing the application has upheld the contention raised by the defendants with respect to alteration in the nature of the suit and has also non-suited applicants holding that they were not due diligent and the application was moved after considerable delay.

3. Counsel for the petitioner while assailing the impugned order would submit that the finding with respect to alteration of nature of the suit cannot be sustained. From the facts, it is evident that it is on the filing of the written statement that the plaintiff came to know of the conveyance deed. Immediately, application was moved under Order XI Rule 14 CPC seeking production of the documents. Thus, the incorporation of relief of declaration would only reduce the multiplicity of the litigation and thus, the amendment being necessary for the proper adjudication of the matter ought to have been allowed.

4. *Per contra*, Mr. Jaswal would submit that despite the fact that the factum of there being conveyance deed in favour of the defendants was disclosed in the written statement, the present application seeking amendment of the plaint was moved only after issues have been framed and thus, the Court has rightly non-suited the plaintiff.

5. I have heard counsel for the parties and have carefully gone through the records of the case.



6. So far as the plea with respect to alteration of the nature of the suit is concerned, the same is misconceived. The main suit is for decree of partition. In every suit seeking decree of partition, decree of declaration is inherent. Thus, merely by claiming additional relief of declaration with respect to conveyance deed, it cannot be said that the nature of the suit stands altered.

7. So far as the issue with respect to delay in moving the application is concerned, though the trial has commenced after the issues were framed, but admittedly no evidence has been led till date. Apart from that incorporation of challenge to the conveyance deed will only help in reducing the multiplicity of the litigation. Trite it is wherever the Court finds that the proposed amendment shall reduce the multiplicity of litigation, the other nuances have to pave wave for such amendment.

8. In view thereof, this Court finds that the present revision petition merits exceptions, as the impugned order cannot be sustained. Consequently, the present revision petition is allowed, subject to payment of Rs.5,000/- cost to be deposited with Punjab and Haryana High Court Bar Association Lawyer's Family Welfare Fund.

9. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(PANKAJ JAIN)
JUDGE

07.03.2025

Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No