



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

247

CR-4713-2022 (O&M)

Date of Decision: 02.07.2025

SAVITRI DEVI

.....Petitioner

Vs.

BADLU RAM AND OTHERS THROUGH LR'S

.....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: Mr. Aditya Yadav, Advocate for the petitioner.

None for the respondents.

DEEPAK GUPTA, J. (ORAL)

All the respondents have been duly served either personally or through their close family members. However, there is no representation on behalf of any of the respondents and as such they are proceeded against *ex parte* for the purpose of the present revision.

2. Petitioner before this Court is one of the defendants who has assailed the order dated 20.07.2022 (Annexure P-6) passed by learned Civil Judge (Jr. Division), Rewari, permitting the plaintiff (*respondent No.1 herein through his LRs*) to amend his plaint.

3. Plaintiff had made claim in the suit property on the basis that he along with proforma defendants were owner thereof, having inherited from their common ancestor Sh. Ganga Sahai. Decree of declaration was sought that, he along with proforma defendants was the joint owner in possession of the property in dispute. A decree of permanent injunction was also sought to restrain defendant No.1 from raising any construction or from interfering in the possession of the plaintiff.

4. In the written statement, stand was taken by the contesting defendant i.e. petitioner herein that, she was the owner of the property in dispute having purchased the same by virtue of sale deed bearing Vasika No.770 dated 18.06.2018, sale deed bearing Vasika No. 1553 dated



30.08.2018, sale deed bearing Vasika No.569 dated 31.05.2018 and sale deed bearing Vasika No.3189 dated 28.03.2018. It was claimed that by virtue of these sale deeds the contesting defendant i.e. petitioner was the absolute owner in possession of the property in dispute.

5. Based upon these pleadings, issues were framed on 26.03.2019 as per Annexure P-7. Plaintiff closed his evidence on 28.01.2020 as per Annexure P-8. Even the defendants produced and examined two of their witnesses on 18.02.2020 when the application under Order 6 Rule 17 CPC was moved by plaintiff seeking amendment of the plaint so as to challenge the 04 sale deeds as referred by the defendant in the written statement. That application has been allowed by the trial Court by way of the impugned order dated 20.07.2022 (Annexure P-6), which is assailed before this Court.

6. It is contended by learned counsel that based upon the pleadings of the parties, the trial Court had already framed issues. Even the evidence of the plaintiff and part evidence of the defendant had already been recorded when the application was moved and, therefore, amendment could not have been allowed in view of the proviso to Order 6 Rule 17 CPC which clearly mandates that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that despite due diligence, the party could not have raised the matter before the commencement of the trial.

7. In the present case, despite the fact that contesting defendant i.e. petitioner herein had specifically pleaded to be the title holder of the suit property based upon 04 sale deeds, the plaintiff did not seek amendment of plaint at that stage before settlement of issues or even after settlement of the issues and before producing his evidence. The application was moved not only after closure of the evidence by plaintiff, but even after the part evidence had been produced by the defendant.

8. In the aforesaid circumstances, the trial Court was not at all justified in exercising its discretion to permit the plaintiff to amend the



plaint. As such, the impugned order is hereby set aside. The application under Order 6 Rule 17 CPC as moved by the plaintiff-respondent is dismissed.

9. Consequently, the present civil revision is hereby allowed.

02.07.2025

pry

(DEEPAK GUPTA)
JUDGE

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