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

CR-1404-2025

Date of decision: 10.03.2025

Davinder Singh Sidhu

...Petitioner

Versus

Ramandeep Kaur and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Tajinder Pal Singh Makkar, Advocate and
Mr. Gopal Baghla, Advocate for the petitioner.

VIKAS BAHL, J. (ORAL)

1. This is a revision petition filed under Article 227 of the Constitution of India for setting aside the order dated 16.12.2024 (Annexure P-6) passed by the trial Court whereby an application for amendment of the plaint filed by the plaintiffs-respondents No.1 and 2 has been allowed.

2. Learned counsel for the petitioner has submitted that in the present case, the amendment has been allowed at the stage when the evidence of both the parties has been concluded. It is submitted that after passing of the impugned order dated 16.12.2024, the respondents No.1 and 2 have not paid the costs and for the said purpose, he has referred to the zimni order dated 18.02.2025, a copy of which has been handed over to this Court during the course of arguments and is taken on record as Mark "A". It is submitted that the amendment has been made for the purpose of delaying the



proceedings and thus, the application for amendment is not bona fide and deserves to be dismissed and impugned order dated 16.12.2024 deserves to be set aside.

3. This Court has heard learned counsel for the petitioner and has perused the paper book and finds that impugned order passed by the trial Court is in accordance with law and deserves to be upheld and the revision petition being meritless, deserves to be dismissed for the reasons stated hereinafter.

4. It is not in dispute that respondent Nos.1 and 2, who are the daughters of Amarjit Singh, had filed the suit for declaration to the effect that they were owners in equal share and were entitled to possession of land measuring 106 kanals 6 sarsahi which was stated to be 2/3rd share in land measuring 159 kanals 1 marla (the details of the land have been given in the plaint). The case set up by respondent Nos.1 and 2-plaintiffs was that Amarjit Singh was the admitted owner of the suit property and they were his natural heirs and the present petitioner, who is the son of brother of Amarjit Singh, had no right in the suit property. The present petitioner had claimed the suit property on the basis of an unregistered Will which was stated to have been executed by Amarjit Singh in favour of the petitioner and other persons and it was the case of the petitioner that he had been bequeathed half share in the suit property.

5. The application dated 27.08.2024 (Annexure P-3) was filed by respondent Nos.1 and 2 for amendment of plaint under Order 6 Rule 17 CPC in which it had been pleaded that plaintiffs-respondent Nos.1 and 2 had no real brother and after the death of their father, the present petitioner and his



father, who was the real brother of Amarjit Singh, had been looking after the affairs of the property and that respondent Nos.1 and 2-plaintiffs had never participated in any work with respect to the said land and it was with the help of close relatives that they had collected the record and filed the suit. It was specifically stated in the said application that respondent Nos.1 and 2 had, after filing of the suit, come to know that *Halqa Patwari* had not provided the complete record of the landed property of Amarjit Singh to the plaintiffs and they had now come to know that there were other lands which were owned by Amarjit Singh and mutation with respect to some of the said lands had been sanctioned, which also respondent Nos.1 and 2-plaintiffs wanted to challenge. It was stated that same would not change the nature of the suit as the entire case is based on natural succession/unregistered Will and the evidence regarding the same had been led by the parties. The said application was opposed by the petitioner.

6. The trial Court vide impugned order dated 16.12.2024 had allowed the said application and while allowing the said application, had observed that same would help in avoiding multiplicity of litigation and would also not change the nature of the suit as the stand of both the parties would remain the same. It was observed that it was the case of respondent Nos.1 and 2-plaintiffs that they being daughters of Amarjit Singh were claiming to be the owners and were also praying for possession on the basis of natural inheritance whereas the claim of the present petitioner and defendant No.2 was based on the unregistered Will dated 08.09.2014 and also on an exchange between defendant Nos.2 and 3.

7. The said order dated 16.12.2024 is in accordance with law and



deserves to be upheld.

8. The Hon'ble Supreme Court in ***“Rajesh Kumar Aggarwal and others Vs. K.K. Modi and others”***, reported as ***(2006) 4 Supreme Court Cases 385*** has specifically observed that the cardinal principle for allowing an amendment is to see as to whether the same is necessary to decide the real dispute between the parties and at that stage, the Court should not go into the correctness or falsity or the merits of the case in the amendment. The relevant portion of the said judgment is reproduced as under: -

“xxx xxx xxx

18. As discussed above, the real controversy test is the basic or cardinal test and it is the primary duty of the Court to decide whether such an amendment is necessary to decide the real dispute between the parties. If it is, the amendment will be allowed; if it is not, the amendment will be refused. On the contrary, the learned Judges of the High Court without deciding whether such an amendment is necessary have expressed certain opinions and entered into a discussion on merits of the amendment. In cases like this, the Court should also take notice of subsequent events in order to shorten the litigation, to preserve and safeguard the rights of both parties and to subserve the ends of justice. It is settled by a catena of decisions of this Court that the rule of amendment is essentially a rule of justice, equity and good conscience and the power of amendment should be exercised in the larger interest of doing full and complete justice to the parties before the Court.

19. While considering whether an application for amendment should or should not be allowed, the Court should not go into the correctness or falsity of the case in the amendment. Likewise, it should not record a finding on the merits of the



amendment and the merits of the amendment sought to be incorporated by way of amendment are not to be adjudged at the stage of allowing the prayer for amendment. This cardinal principle has not been followed by the High Court in the instant case.

xxx xxx xxx”

9. The amendment which had been allowed is necessary for the proper and final adjudication of the case and would also avoid multiplicity of litigation. It is not in dispute that the contesting claim of the parties would remain the same. It is the case of respondent Nos.1 and 2-plaintiffs that they being daughters of Amarjit Singh are entitled to ownership and possession of the suit property as well as other properties which are now sought to be added on the basis of natural succession. The fact that the suit property and other properties were owned by Amarjit Singh is not disputed. The claim set up by the present petitioner-defendant No.1 is on the basis of unregistered Will dated 08.09.2014. It is thus, apparent that the contesting claim of the parties would remain the same, regarding which the evidence had already been led and thus, the trial Court had rightly granted only one opportunity to each of the parties to file their amended pleadings and additional documentary evidence, if any.

10. The argument raised by learned counsel for the petitioner to the effect that it is respondent Nos.1 and 2 who are trying to delay the proceedings or that the amendment application has been moved after much delay, does not call for setting aside the impugned order. A perusal of the application dated 27.08.2024 (Annexure P-3) would show that it is the case of respondent Nos.1 and 2 that it was after due search that they had come to



know about other properties of their father and there is nothing on record to suggest that respondent Nos.1 and 2 had prior knowledge of the said properties. There was no reason for respondent Nos.1 and 2 to not include the said properties in the original suit in case of them having knowledge about the same. Moreover, the averments made in the application (Annexure P-3) also inspire confidence.

11. On a pointed query raised by this Court, learned counsel for the petitioner has fairly submitted that respondent Nos.1 and 2 are not in possession of the property and that the present petitioner is in possession and respondent Nos.1 and 2 have in fact sought that they are entitled to possession and thus, the question of respondent Nos.1 and 2 wanting to delay the proceedings would not arise, as any delay in the proceedings would primarily prejudice respondent Nos.1 and 2 who are seeking ownership and possession. With respect to the subsequent delay by respondent Nos.1 and 2 after passing of the impugned order, it would be suffice to note that even a perusal of the present revision petition would show that respondent Nos.1 and 2 have filed the amended plaint (Annexure P-5) immediately after the passing of the impugned order and a perusal of the order dated 18.02.2025 would show that it is the present petitioner who has not filed the written statement to the amended plaint and as has been fairly stated by the learned counsel for the petitioner, the same has not been filed till date whereas the matter is now listed for 13.03.2025.

12. The Hon'ble Supreme Court in the case of *“Shalini Shyam Shetty and another Vs. Rajendra Shankar Patil”*, reported as *(2010) 8 Supreme Court Cases 329*, had observed that the High Courts cannot, at the



drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or courts inferior to it. Nor can it, in exercise of this power, act as a court of appeal over the orders of court or tribunal subordinate to it. It was also observed in the said judgment that a statutory amendment with respect to Section 115 of the Civil Procedure Code does not and cannot cut down the ambit of High Court's power under Article 227 but at the same time, it must be remembered that such statutory amendment does not correspondingly expand the High Court's jurisdiction of superintendence under Article 227. The power of interference under this Article is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the tribunals and courts subordinate to the High Court. It was also observed that the power under Article 227 may be unfettered but its exercise is subject to high degree of judicial discipline.

13. Keeping in view the abovesaid facts and circumstances, the impugned order passed by the trial Court is in accordance with law and deserves to be upheld and the present revision petition being meritless, deserves to be dismissed and is accordingly, dismissed.

10.03.2025

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No