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

CR-1739-2025

Date of decision : 24.03.2025

Kahlilan and another

... Petitioners

Versus

Sinder Singh and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Ms.Poonam Verma, Advocate
for the petitioners.

VIKAS BAHL, J.(ORAL)

1. This is a Civil Revision Petition filed under Article 227 of the Constitution of India for setting aside the impugned order dated 03.01.2025 passed by the Additional Civil Judge (Sr.Div.), Dhuri, vide which the second application filed by the respondents under Order 6 Rule 17 CPC read with Section 151 CPC for permission to amend the written statement has been allowed.

2. Learned counsel for the petitioners has submitted that the primary concern of the petitioners in filing the present revision petition is that in the impugned order, although the trial Court had observed that the argument of the petitioners to the effect that the defendant no.1 is not the co-owner, could not be considered at that stage, however, the observation that he is prima-facie a co-owner should not be construed as an estoppel against the petitioners to lead evidence and to show that the defendant no.1 in fact is not co-owner of the property in question. It is submitted that the



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said question and all other questions be considered by the trial Court independent of the observations made in the order dated 03.01.2025 after both the parties have led their entire evidence.

3. The Hon'ble Supreme Court of India in the case of ***Rajesh Kumar Aggarwal and others vs. K.K. Modi and others*** reported as ***(2006) 4 Supreme Court Cases 385*** had observed that while considering the application for amendment, the Court should not go into the correctness or falsity of the case set up in the amendment and 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.

4. Keeping in view the above said facts and circumstances and the limited prayer made by learned counsel for the petitioners, the present revision petition is disposed of by upholding the order dated 03.01.2025 with the observation that all the questions including the question as to whether the defendant no.1 is the co-owner of the property in question or not would be finally decided by the trial Court after taking into consideration the evidence and documents produced by both the parties, independent of the observations made in the order dated 03.01.2025, as the said order has been passed only for the purpose of deciding the application under Order 6 Rule 17 CPC.

(VIKAS BAHL)
JUDGE

March 24, 2025.

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No