

(1989) 11 P&H CK 0016

High Court Of Punjab And Haryana At Chandigarh

Case No: C.R. No. 735 of 1988

Manohar Lal

APPELLANT

Vs

Smt Lajwanti and Others

RESPONDENT

Date of Decision: Nov. 6, 1989

Citation: (1990) CivCC 491 : (1990) 2 RCR(Rent) 215

Hon'ble Judges: S.S. Sodhi, J

Bench: Single Bench

Advocate: Ashok Aggarwal and Mr. Mohinder Singh, for the Appellant; Surya Kant, for the Respondent

Final Decision: Allowed

Judgement

S.S. Sodhi, J.

The controversy here pertains to amendment of the plaint.

2. The plaintiff Manohar Lal, filed a suit for injunction to restrain the defendant from alienating the land in suit. The relief claimed being funded upon an agreement of June 8, 1970. This suit was filed in June, 1981. It was when the suit was at the stage of arguments that on January 25, 1988, the plaintiff moved an application for amendment of the plaint with a view to seek the relief of specific performance of the agreement of June 8, 1970. In making this application, it was also stated by the counsel for the plaintiff that if the amendment is allowed, no further evidence would be led by the plaintiff on the re-framed issues. In other words, no further delay in the disposal of the suit would be entitled thereby. The amendment was, however, opposed by the defendant s and it was consequently disallowed mainly for the reason that grave injustice would be caused if it is allowed as the period of limitation had already elapsed.

3. There can be no manner of doubt that the application for amendment in much delayed, but delay, by itself, it is not well-established, is no ground to refuse amendment if no such injustice is caused to the other party, as cannot be

compensated in costs. Not without significance here is the assertion of the counsel for the plaintiff that if allowed, the amendment would not lead to any further evidence being led by the plaintiff.

4. As regards to aspect or the prejudice of injustice to the defendants, it would be pertinent to note that limitation for a suit for specific performance founded upon the agreement of June 8, 1970 still ensures as the time fixed for the performance of the agreement was two months after permission for the sale of the share of the minors, is obtain from the Court. Admittedly, one of the vendors is still a minor and no application has been moved yet for seeking such permission from any court. This being so, no right has yet come to vest in the defendants by lapse of time nor is the relief sought by the plaintiff barred by limitation.

5. Such thus being the situation, the plaintiff is hereby permitted to amend the plaint as prayed for by him subject, however, to payment of Rs.500/- as costs.

6. This revision petition is accordingly hereby accepted. There will be no order as to costs.