

Mahinder Singh Vs Mimla @ Bimla and Others

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Oct. 11, 2013

Hon'ble Judges: Rajan Gupta, J

Bench: Single Bench

Advocate: Anil Kshetarpal, for the Appellant; Vijay Singh Kajla, for the Respondent

Final Decision: Dismissed

Judgement

Rajan Gupta, J.

Present revision petition is directed against the order passed by the trial court whereby prayer for amendment of plaint has

been rejected. Learned counsel for the petitioner has assailed the order. According to him, amendment sought by petitioner was necessary for just

decision of the case. Trial court has erroneously rejected the prayer. He has relied upon judgment reported as Abdul Rehman and Another Vs.

Mohd. Ruldu and Others,

2. Learned counsel appearing for the respondents has opposed the prayer. According to him, amendment sought by the petitioner would change

the nature of the suit. Besides, application has been moved at the fag end of the trial which is abuse of process of law.

3. I have heard learned counsel for the parties. It appears that plaintiff filed a suit for declaration that decree dated 04.04.2006 be declared null

and void, not binding on the plaintiff. After notice, defendants filed written statement and led their evidence. As the suit neared its culmination,

instant application was moved to contend that defendant no. 1 had murdered Sheogi. Thus, she had no right to his property. Plea has been

rejected by the court below observing that amendment sought would change the nature of suit. Besides, there was no proof of murder of Sheogi.

There was neither any DDR nor any other evidence in support of this plea. Defendants who are sisters had succeeded to property of Sheogi on the

basis of a civil court decree. The court, thus, found that amendment would not be justified as it would lead to de novo trial. I do not find any

infirmity the order. Admittedly, trial has not only commenced but nearing its culmination. Thus, proviso to Order 6 Rule 17 CPC would be

attracted. The judgment in Abdul Rehman case (supra) cannot help the petitioner. According to said judgment, amendment which subserves the

ultimate cause of justice should be allowed. It was further held that an amendment seeking declaration of title would not introduce different relief if

necessary factual basis regarding title had already been laid down in the plaint. Facts of the instant case are totally different. An entirely new plea is

sought to be introduced which would lead to fresh trial. I, thus, find no ground to interfere in revisional jurisdiction. Dismissed.