
(2018) 11 P&H CK 0085

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No.7395 of 2018 (O&M)

Mehar Chand

APPELLANT

Vs

Dalbir Singh & Anr

RESPONDENT

Date of Decision: Nov. 19, 2018

Acts Referred:

- Constitution of India, 1950 - Article 227

Hon'ble Judges: Avneesh Jhingan, J

Bench: Single Bench

Advocate: R. C. Sharma

Final Decision: Dismissed

Judgement

1. Application is allowed, as prayed for.

The present revision petition under Articles 227 of the Constitution of India, has been filed seeking quashing of order dated 25.09.2018 passed learned

Additional Civil Judge (Sr. Division), Ludhiana (hereinafter referred to as 'trial Court') whereby, application for impleading Kiranjit Kaur as defendant

No.3 has been dismissed.

2. The petitioner/plaintiff filed a suit for decree of redemption of mortgage of house measuring 250 sq. yards comprised in Khasra No. 171, Khata No.

106/111, Hadbast No.71, situated within the revenue limits of Village Meharban, Tehsil and District Ludhiana.

3. Upon notice, a written statement was filed in the suit by respondents/defendants on 19.12.2013. The parties had already led the evidence and the

case is fixed for rebuttal evidence. In the meantime, an application dated 14.08.2018 was filed for impleading Kiranjit Kaur, one of the legal heir of

Inder Singh, as defendant No.3 being necessary party to the suit. The said application was dismissed by learned trial Court, hence, the present revision petition has been filed.

4. Learned counsel for the petitioner contended that on 13.08.2017, during cross-examination of DW-1, while minutely perusing the jamabandi, it came to the knowledge of petitioner/plaintiff that Kiranjit Kaur daughter of Inder Singh, is also a legal heir of the deceased-Inder Singh and due to oversight or inadvertence, she could not be impleaded as a party to the suit.

5. The contention raised by learned counsel for the petitioner lacks merit.

6. The trial Court has given a specific finding that in the written statement filed on 19.12.2013, respondents/defendants raised a specific preliminary

objection that the suit of the petitioner/plaintiff was bad for non-joinder of necessary party, as Kiranjit Kaur was also a necessary party to the suit. The petitioner/plaintiff filed a re-joinder but never sought any amendment in the plaint. Almost after five years, an application was moved stating that due to oversight and inadvertence, Kiranjit Kaur was not impleaded as a party.

7. In the facts of the case, it cannot be accepted that it was a case of oversight especially, when rejoinder to the written statement itself was filed.

Application has been filed at a belated stage when evidence of plaintiff and defendants are over.

8. No case is made out for interference. The present civil revision petition is dismissed.