

(2006) 01 P&H CK 0140
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 2498 of 2004

Satguru Sri Jajit Singh Ji

APPELLANT

Vs

Gurjeet Singh alias Harcharan Singh and Others

RESPONDENT

Date of Decision : 16-01-2006

Acts Referred:

Citation : (2006) 2 CivCC 715 : (2006) 143 PLR 401 : (2006) 2 RCR(Civil) 71

Hon'ble Judges : Hemant Gupta, J

Bench : Single Bench

Advocate : Anish Setia, for the Appellant; Sumeet Mahajan, for the Respondent

Final Decision : Allowed

Judgement

Hemant Gupta, J.—The plaintiff is in revision petition aggrieved against the order passed by the trial Court on 29.4.2004, whereby his application seeking amendment in the plaint was declined.

2. The plaintiff has filed a suit for possession of land measuring 103" x 41" as shown in the plaint situated in Galli No. 6, Pratap Nagar, Ludhiana. It is alleged that the suit property is 1/6th part of Khasra Nos. 161/861 to 866 as per Jamabandi for the year 1974-75, village Dholewal Tehsil and District Ludhiana but due to inadvertent mistake the plaintiff has not mentioned the Khasra number of the property in the suit. Therefore, he wishes to amend the plaint so as to mention the correct Khasra number of the property in question.

3. it is the case of the plaintiff that no oral evidence is required to be led after the amendment is allowed and only revenue documents are required to be tendered in evidence after amendment. The said amendment has been declined by the learned trial Court primarily on the ground that the amendment has been sought after a lapse of more than 20 years and that the first Appellate Court has remanded the case to the trial Court for fresh decision. It is a case of intentional mistake. Mentioning of incorrect Khasra number cannot be called as inadvertent mistake.

4. After hearing learned Counsel for the parties, I am of the opinion that the impugned order suffers from patent illegality and irregularity causing substantial injustice to the petitioner and, therefore, not sustainable in law. It is not disputed that the plaintiff has pleaded that land is demarcated by the boundaries. The petitioner want to plead that the said property is in fact part of a particular Khasra number. In support of such plea, the petitioner is relying upon some revenue documents, which are per se admissible in evidence. Therefore, mere fact that there is a delay in seeking amendment cannot be a ground to decline the amendment. The plaintiff has not mentioned Khasra numbers by mistake. Omission to mention any Khasra number is not such by which the plaintiff was to gain anything and, therefore, finding that it is the case of intentional mistake is clearly not sustainable.

5. In view thereof, the present petition is allowed, the order dated 29.4.2004 passed by the learned trial Court is set aside. The plaintiff would be permitted to tender the revenue record in Court. However, it shall be open to the defendants to rebut the same in accordance with law.

6. Parties through their counsel are directed to appeal before the learned trial Court on 20.2.2006, for further proceedings in accordance with law.