

(2003) 08 P&H CK 0151
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 2252 of 2003

Sewa Singh

APPELLANT

Vs

Babu Singh and Others

RESPONDENT

Date of Decision : 25-08-2003

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 6 Rule 17

Citation : (2004) 136 PLR 457 : (2003) 4 RCR(Civil) 821

Hon'ble Judges : M.M. Kumar, J

Bench : Single Bench

Advocate : R.K. Gupta, for the Appellant;

Final Decision : Dismissed

Judgement

M.M. Kumar, J.—This petition filed u/s 115 of the Code of Civil Procedure, 1908 challenges order dated 7.1.2003 passed by learned Additional District Judge, Fatehgarh Sahib dismissing the application of the plaintiff-petitioner in which prayer for amendment of the plaint has been made. In the suit filed by the plaintiff-petitioner it was asserted that the suit property bears no khasra numbers. However, in the written statement filed by the defendant-respondents on 15.3.1997, khasra numbers were clearly mentioned. Order dated 7.1.2003 passed by the learned additional District Judge at the stage of first appeal reads as under:-

"I have considered the arguments advanced by the Learned counsel for the parties. Respondents/defendants submitted written statement on 15.3.1997 and mentioned in the written statement in clear words that suit property bears Khasra numbers and they have also given Khasra numbers of the suit property in the written statement. But no attempt was made by the appellant/plaintiff to get the plaint amended after the filing of the written statement. Rather in the replication Sewa Singh submitted that it is wrong that the suit property bears any khasra number. The appellant in the application mentioned that on the application on Harchand Singh the Halqa Kanungo conducted the demarcation

but there is no any such application of Harchand Singh on the file. Sewa Singh while appearing as PW3 denied in his cross-examination that suit property bears any khasra numbers. So keeping in view the facts & circumstances mentioned above and in view of the discussion held above, I find no merits in the application. Thus this application U/O.6 Rule 17 C.P.C. stand dismissed."

2. Mr. R.K. Gupta, learned counsel for the plaintiff-petitioner has urged that the plaintiff-petitioner wishes only to change the heading of the plaint by incorporating khasra numbers as the demarcation report by the Halqa Kanungo has been submitted later on and demarcation was undertaken on the application filed by one Harchand Singh. Learned counsel has also submitted that by change of Khasra numbers, the stand taken by the defendant-respondents is sought to be accepted.

3. After hearing the learned counsel, I do not feel persuaded to take a view different than the one taken by the learned Additional District Judge because the categorical stand taken by the plaintiff-petitioner in the pleadings by way of replication was that the property in dispute does not bear any khasra number despite the stand of the defendant-respondents in the written statement. Even the plaintiff-petitioner Sewa Singh while appearing as PW3 has specifically denied that the property bears any Khasra Number. Therefore, the findings have also gone against the plaintiff-petitioner. In this view of the matter, I am of the considered view that no amendment could be allowed which would efface the findings on a contested issue. Therefore, there is no room to interfere in the impugned order and the revision petition is liable to be dismissed;

For the reasons stated above, this petition fails and the same is dismissed.