

(1988) 05 P&H CK 0005
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 1022 of 1957

Sita Ram

APPELLANT

Vs

Bhagwan Dass and another

RESPONDENT

Date of Decision : 11-05-1988

Acts Referred:

Citation : (1988) 05 P&H CK 0005

Hon'ble Judges : G.R. Majithia, J

Bench : Single Bench

Advocate : C.B. Goel, for the Appellant; Y.P. Malik, for the Respondent

Final Decision : Dismissed

Judgement

G.R. Majithia, J.—Respondent Bhagwan Dass filed a suit for possession of the suit land as an owner. During the pendency of the suit, an

application was moved by him to incorporate the following plea by way of amendment:-

By adding the words:-

being Mahant of Mandir Thakur Ji and is entitled to Manage the affairs of the Mandir Thakur Ji situated at Doora Kalan"" after the words ""as

owner"" in para 1 of the plaint.

2. His original claim was founded on the allegation that he is recorded as owner of agricultural land measuring 18 Kanals 1 Marla. The only

amendment sought to be introduced is that as an owner he is entitled to manage the affairs of the Mandir Thakur Ji.

3. The amendment was allowed by the Sub Judge and the same is under challenge in the revision petition.

4. The amendment sought in the plaint is consistent with the original plea taken

by the respondents/plaintiff. In the original plaint he had categorically stated that he was the owner of the suit land. In the amended plaint, he only wants to introduce that he is entitled to manage the property of the Dera. The word "owner" is loosely used.

5. Shri C.B. Goel, counsel for the petitioner/defendant, has challenged the impugned order on the ground that the application for amendment was moved after the conclusion of the arguments and that the plea sought to be introduced by way of amendment is not consistent with the original plaint. In support of his submissions he has relied on Madan Mohan Aggarwal v. Shmt. Mansa Devi (1985-2) 88 P.L.R. 206. The argument raised by the learned counsel is devoid of any force. It is a settled rule of law that the plaintiff can introduce a new cause of action by way of amendment in the plaint except in cases where a vested right has accrued to the defendant by lapse of time.

6. In Raghvir Prashad etc. v. Chet Ram 1971 C.L.J. 612, Harbans Singh, C.J. (as his Lordship then was) was pleased to hold as under:-

However negligent or careless may have been the first omission and however late the proposed amendment, the amendment, should be allowed if it can be made without injustice to the other side. There is no injustice if the other side can be compensated for by costs.

A plaintiff may add a new cause of action and the defendant may add a new defence. Even a new case may be allowed to be introduced.

Thus, the judgment reported in Madan Mohan Aggarwal's case (supra) has no bearing on the facts of the instant case. Even otherwise, I find that

the order/under revision is just and fair and calls for no interference. The petition is dismissed. However, I leave the parties to bear their own costs.