
(2017) 02 P&H CK 0227
In the Punjab And Haryana At Chandigarh
Case No : C.R. No. 967 of 2017 (O&M)

Smt. Bohti

APPELLANT

Vs

Balley

RESPONDENT

Date of Decision : 13-02-2017

Acts Referred:

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

Citation : (2017) 2 LawHerald 1146

Hon'ble Judges : Mrs. Daya Chaudhary, J.

Bench : Single Bench

Advocate : Mr. Virendra Rana, Advocate, for the Petitioner

Final Decision : Disposed Off

Judgement

Daya Chaudhary, J. (Oral)—The present revision petition has been filed under Article 227 of the Constitution of India for setting aside order dated 13.01.2017 (Annexure P-4) passed by Civil Judge (Junior Division), Mewat in Civil Suit No.1226 of 2014 titled as Smt. Bohti and others v. Balley and others, whereby, the application moved by the petitioner under Order 6, Rule 17 CPC for amendment of the plaint has wrongly been dismissed.

2. Learned counsel for the petitioners submits that certain facts were not mentioned inadvertently in the plaint and subsequently, the petitioners came to know about those facts, which are necessary for just decision of the case. Learned counsel further submits that some land, which was acquired was not mentioned in the plaint. Learned counsel also submits that the other party is not going to be prejudiced in any manner.

3. Heard arguments of learned counsel for the petitioners and have also perused the application moved by the petitioner and impugned order dated 13.01.2017 as well as other documents available on the file.

4. A perusal of the application would show that the provisions under which the application has been moved, as to how these facts were not in the knowledge of

the petitioners and when they came to know about these facts have not been mentioned. The application moved by the petitioners appears to be vague as not only the amendment sought has clearly been mentioned but the reasons for amendment in the plaint have also not been mentioned.

5. On perusal of the impugned order, it shows that the reasons as to how the party opposite is going to be prejudiced by the amendment have not been mentioned. Simply it has been mentioned in the impugned order that the suit was filed in the year 2014 and this application has been moved just to fill up the lacuna and to linger on the matter. No observation has been made as to how the nature of the suit is going to be changed and how the other party is going to be prejudiced.

6. Accordingly, the present revision petition is allowed and impugned order dated 13.01.2017 (Annexure P-4) is set aside with a direction that in case, the proper application is moved by the petitioners before the trial Court by mentioning specific reasons and provisions within a period of one month from the date of receipt of certified copy of this order, the trial Court is directed to consider the same and pass necessary order in accordance with law by considering the nature of prayer made in the application and by recording the reasons as to how the amendment is going to change the nature of the suit or other party is going to be prejudiced in any manner. It is also made clear that the trial Court is not to be influenced by the earlier order passed in any manner.

7. Disposed of accordingly.