

In the Court of Shinku Kumar, PCS, Civil Judge (Junior Division), Ajnala
UID No. PB0571

Gurjit Kaur Vs. Karamjit Kaur & Ors.

CNR No. PBASA0-000398-2019

CIS No. CS-265-2019

Present: Sh. J.S Mohar Adv, Counsel for plaintiff.
Sh. Manjit Singh Bhatti Adv, Counsel for defendants No. 1 to 3.
Suit against defendants No. 4 to 34 dismissed as withdrawn.

Application under Section 6 Rule 17 read with Section 151 CPC.

Order:-

1. This order of mine shall dispose of an application filed by applicant/plaintiff under order 6 Rule 17 CPC read with Section 151 CPC for amendment of the plaint, head note, date of sale mentioned in Para Nos. 1, 4 and prayer clause.

2. It is submitted by the applicant/plaintiff that inadvertently, in the head note as well as in para No. 1 and prayer clause of the plaint, the date of Muntkilnama has been typed as “02.11.2015” instead of Muntkilnama dated “11.04.2019 and 20.03.2019”. It is further submitted that the above said mistake is neither intentional nor willful, rather the same is typographical mistake and the proposed amendment will not prejudice to the opposite party. Lastly, it is prayed that the application of the applicant/plaintiff may kindly be allowed, in the interest of justice.

3. On the other hand, Ld. Counsel for the defendants No.1 to 3 filed reply taking the preliminary objection of maintainability. On merits, all the averments, by and large, made in the application denied and request is made for dismissal of the application.

4. I have heard Ld.Counsel for the parties and with their able assistance gone through the case file carefully.

5. As per order 6 R 17 CPC, the Court may allow either party to amend his pleadings in such a manner as it do not cause prejudice to the other party and amendment sought is necessary for just decision of the case. Further, the applicant/plaintiff in his application has submitted that inadvertently, in the head note as well as in para No. 1 and prayer clause of the plaint, the date of Muntkilnama has been typed as “02.11.2015” instead of Muntkilnama dated “11.04.2019 and 20.03.2019”. In my considered view, amendment sought by the plaintiff is formal in nature and is only a typographical mistake and no prejudice would be caused to the defendants, if the present application is allowed. Therefore, in the interest of justice and in order to decide the case on merits, this Court is of the view that the amendment sought by the plaintiff is formal in nature and will not change the nature of the suit. The bare provision of order 6 rule 17 provides that *“The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties.”* In ***Charan Das Vs. Amir Khan, AIR 1921 PC 50, in L.J.Leach & Co. Ltd. Vs. Jardine Skinner & Company, 1957 SCR 438, in Smt. Ganga Bai Vs. Vijay Kumar, 1974 (2) SCC 393, in M/s Ganesh Trading Co. Vs. Moji Ram, 1978 (2) SCC 91, in B.K.N Pillai Vs. P. Pillai, 2001(1) Apex Court Journal 139 (S.C.)***, it has been observed that *“The purpose and object of order 6 rule 17 CPC is to allow*

*either party to alter or amend his pleadings in such manner and on such terms as may be just. The power to allow the amendment is wide and can be exercised at any stage of the proceedings in the interest of justice on the basis of guide lines laid down by various High Courts and this court. It is true that the amendment cannot be claimed as a matter of right and under all circumstances. But it is equally true that the courts while deciding such prayers should not adopt hyper technical approach. Liberal approach should be the general rule particularly in cases where the other side can be compensated with costs. Technicalities of law should not be permitted to hamper the courts in the administration of justice between the parties. Amendments are allowed in the pleadings to avoid uncalled for multiplicity of litigation.” Further in **Ragu Thilak D.John Vs. S.Rayappan & Ors., 2001(2) CCC 298 (S.C.)** the Hon’ble Apex Court of India has observed that “for allowing amendment, the court should adopt liberal approach in order to minimize the litigation”. In **Kailash & Anr. Vs Yasina & Ors. 2010(1) CCC 579 (P.H.)** the Hon’ble Punjab & Haryana High Court has observed that “prayer of amendment must satisfy two conditions (i) that it is not causing injustice to the other and (ii) the proposed amendment is necessary for the purpose of determining the real questions in controversy between the parties. The same view has also been expressed in **Kishan Singh vs Krishan Lal Bhatia 1999(1) CCC 602 (P.H.)** and in **Aasma Abdul Majeed & Anr. Vs Jayram Arjun Tisge & Ors. 1999(1) CCC 280 (BOMBAY) Kopargaon Sahakari Sakhar Karkhana Limited 2015(1) CCC 701 (Bombay) and Balkrishna Ganpat Elwande vs Shankar Tukaram Sable & Ors. 2006(4) CCC 687***

(Bombay). With these observations, the present application is allowed in favour of applicant/plaintiff by observing judgments *Ram Niranjana Kajaria vs Sheo Prakash Kajaria & Ors 2015 (4) CCC 348 (S.C.)*, *Navtej Singh vs Darbara Singh & Ors 2015 (2) CCC 148 (P&H)*, and *Harbans Singh and others vs Biro @ Charanjit Kaur 2014(4) RCR Civil 702 (P&H)*. Therefore, the proposed amendment is necessary for the purpose of determining the real questions in controversy between the parties. Accordingly, application filed by the plaintiff is allowed and disposed off, accordingly.

Pronounced in Open Court
Dated: 27.09.2019

Shinku Kumar, PCS
Civil Judge, Jr. Division
Ajnala, UID No. PB0571.

I attest to the accuracy and
authenticity of this document.
Typed by: Avadh Joshi
Stenographer G-II

Gurjit Kaur Vs. Karamjit Kaur & Ors.

CS-265-2019

Present: Sh. J.S Mohar Adv, Counsel for plaintiff.
Sh. Manjit Singh Bhatti Adv, Counsel for defendants No. 1 to 3.
Suit against defendants No. 4 to 34 dismissed as withdrawn.

Arguments heard. Vide my separate detailed order of even date, application under order 6 Rule 17 read with Section 151 CPC is allowed.

Perusal of the case file reveals that amended plaint has already been filed by the plaintiff. Let file be put up on 11.10.2019 for filing amended written statement by defendants No. 1 to 3.

Notice to defendants No. 4 to 34 be also issued for date fixed.

Shinku Kumar
CJJD/27.09.2019
Ajnala, UID-PB0571

I attest to the accuracy and
authenticity of this document
Typed by: Avadh Joshi
Stenographer G-II

Next Date: 11.10.2019