

CS NO. 96111/16

RANBIR SINGH VS. SARDAR HARDEEP SINGH

**At 2:00 pm**

29.06.2020

**ORDER**

1. Vide this order, I shall be deciding an application under Order 6 Rule 17 CPC filed on behalf of plaintiffs seeking amendment of plaint.

2. In the said application, it has been stated that the plaintiff has filed a suit for declaration that the suit property is an ancestral property. Plaintiffs are the decedents of Sh. Dal Singh, who is the common ancestor of both the plaintiffs and defendants. The property is an ancestral property and the plaintiffs and defendants have acquired common and undivided right upon the said property. Defendants are very well aware that common ancestors of both plaintiffs and defendants had acquired the suit property in lieu of ancestral property which existed in Gujrawala, Lahore, Pakistan. Further stated that the defendant filed his written statement on 22.05.1990 along with certain documents. One of the said

*D. Pring*

documents is relinquishment deed dt. 14.08.1978 allegedly executed by Late Sh. Harbans Singh, grandfather of the plaintiff in favour of late Sh. Mehal Singh, father of defendant thereby allegedly

relinquishing his share in the suit property in favour of Sh. Mehal Singh. The copy of the said relinquishment deed was provided to the plaintiff for the first time when W.S. was filed by the defendant on 22.05.2019 and they were not aware of the said deed earlier. The plaintiff has sufficient reason to believe that alleged relinquishment deed is a forged and fabricated document. Therefore, the plaintiff has filed the present application to amend the plaint under order 6 rule 17 CPC via adding the following para, which are as follows:-

a. Add a paragraph 24A after Paragraph 24, and before paragraph 25, as thus :

*"That on 22.05.2019, the Defendant has produced a copy of the said alleged Relinquishment Dt. 14.08.1978. The plaintiffs believe that the Relinquishment Dt. 14.08.1978 is a forged and fabricated document. That Late Sh. Harbans Singh never informed Sh. Harwinder Singh, the Father of the plaintiffs of the alleged Relinquishment Dt. 14.08.1978. Further, the DDA never verified the genuineness of the alleged Relinquishment Dt. 14.08.1978 either from Late Sh. Harbans Singh or Sh. Harwinder Singh. The plaintiffs have never seen the Relinquishment Dt. 14.08.1978, until 22.05.2019. Thus, such belated production of the said forged document after more than four (4) decades casts severe doubts over the genuineness and veracity of the said document, which is an unproven and unverified document. That the defendant cannot deny the rights and share of the plaintiffs in the suit property*

*Pritya*

on strength of an unproven and untested photocopy of an alleged Relinquishment Dt. 14.08.1978."

- b. Add paragraph 31 after paragraph 30, as thus :  
"The prayer for declaration against the alleged relinquishment deed dt.14.08.1978 is being valued at Rs.200/- upon which appropriate court fees is being affixed."
- c. Declaration thereby declaring the Relinquishment Deed dt.14.08.1978 as invalid, null, non est and void and not binding on the plaintiffs;
- d. Costs;
- e. Pass such other or further orders or directions as this Hon'ble Court may deem just, fair and equitable."

3. Reply was filed on behalf of defendant wherein inter alia it was submitted that the present application has been filed with the intention to linger on the litigation and the present application is an afterthought. It was further submitted by the defendant that the plaintiffs claim that the first time they came into possession of the relinquishment deed on 22.05.2019 is extremely false and misleading and plaintiffs were through their father were very much aware of the said relinquishment deed. The father of the plaintiffs has already been contesting with the defendant in another set of litigation RFA no. 407/2010 and has been privy to all the information regarding title and authority of the defendant. On these grounds the defendant has prayed for dismissal of the present application.

4. Arguments heard. Record perused.

5. Perusal of amendment sought in the plaint reveals that the plaintiff is seeking to clarify that he was not aware of the

*Singh*

relinquishment deed dt. 14.08.1978 earlier. When defendant filed his written statement on 22.05.2019 along with certain documents plaintiff got to know about the said relinquishment deed. The plaintiffs claim is that the said relinquishment deed is forged and fabricated document and in order to prove that, plaintiffs are seeking to amend the present plaint by adding above mentioned paragraphs in the plaint thereby, adding relief of declaration of relinquishment deed as null and void.

6. Ld. Counsel for defendant has argued that the plaintiffs were very much aware of the said relinquishment deed much before and despite having the knowledge of the said relinquishment deed they have sought the amendment. Also Ld. counsel for defendant has argued that plaintiffs claimed in the present application is false and misleading and also it is stale and time barred.

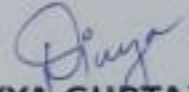
7. Court is of the opinion that it is trite law that while deciding the application under Order 6 Rule 17 CPC, the Court is expected to adopt a liberal approach to ascertain whether the amendments are necessary for purpose of determining the real question in controversy. The amendments which do not prejudice the other party or where the other party can be compensated by imposition of cost are to be allowed by the Court if they are essential for purpose of adjudication of the dispute between the parties.

8. In view of the above observation, the court is of the view that the amendment sought by the plaintiffs is necessary for adjudication

*[Handwritten signature]*

of real dispute between the parties in the present case. The present suit is a suit for declaration of ownership and in such a suit validity of relinquishment deed, if any, has to be decided for just adjudication. Hence, in the interest of justice, application under Order 6 Rule 17 CPC stands allowed. Let the amended plaint be filed and supplied to the defendants.

Application in hand disposed of accordingly.



**(DIVYA GUPTA)**

**LD. CJ-03 (CENTRAL), THC**

**29.06.2020**

CS NO. 96111/16

RANBIR SINGH VS. SARDAR HARDEEP SINGH SAFRI

29.06.2020

Present: Sh. Rishabh Bansal, Ld. Counsel for Plaintiff.  
Sh. Jitender Kumar, Ld. Counsel for defendant.


(Heard on Cisco Web Ex.)

Matter is listed for order on application under Order 6 Rule 17 CPC.

Vide my separate order, application under Order 6 Rule 17 CPC is allowed and disposed of accordingly.

Plaintiffs are directed to file amended plaint and supply copy of it to the opposite party within 15 days. Copy be also sent to computer branch.

Put up for reply/ arguments on application under Order 8 Rule 1 and application under Order 7 Rule 11 CPC on **14.09.2020**.

  
(DIVYA GUPTA)

LD. CJ-03 (CENTRAL), THC

29.06.2020