

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 1097 of 2015 [O&M]

Date of Decision : February 18th, 2015

Kuldeep Kaur and others

.... Petitioners

Versus

Harbans Singh and another

.... Respondents

CORAM : HON'BLE MR. JUSTICE DR. BHARAT BHUSHAN PARSOON

Present Mr. Atul Arya, Advocate,
for the petitioners.

Dr. BHARAT BHUSHAN PARSOON, J.

Order dated 17.9.2014, vide which application for amendment of the plaint of the plaintiffs-petitioners herein, was dismissed, is under challenge in this revision petition.

2. During the pendency of the suit, when the case was at the final stage of conclusion of evidence by the defendants, an application was moved by the plaintiffs-petitioners to introduce an amendment that if during pendency of the suit, the plaintiffs are dispossessed from the suit property, then they would be entitled to possession as well.

3. Seeking support from a Division Bench judgment of Hon`ble Supreme Court of India in **Abdul Rehman and anr. Vs. Mohd. Ruldu and Ors 2012 [4] RCR [Civil] 481**, learned counsel for the petitioners has urged that all amendments which are necessary for the purpose to determining the real questions in controversy between the parties, should be allowed if it does not change the basic nature of the suit.

4. The plea, sought to be introduced, was even earlier available with the plaintiffs-petitioners. It is not a case of the petitioners that they have been dispossessed during the pendency of the suit. The amendment is sought merely on possibility of dispossession during the pendency of the suit regarding which as well, no material facts and circumstances have

been detailed.

5. When questioned, learned counsel for the petitioners has not been able to convince this Court as to what circumstances have arisen during the pendency of the suit whereby plaintiffs have started feeling threats about their dispossession at the hands of the defendants-respondents herein.

6. Rule 17 of Order VI CPC is reproduced below for ready reference :-

“17. Amendment of pleadings.—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:

Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.”

7. The suit is at the stage of conclusion of evidence and thus, proviso to Rule 17 of Order VI CPC also come in the way of the petitioner.

8. The plaintiffs-petitioners herein have not been able to satisfy as to how this amendment, which is merely imaginary in nature, would advance the cause of justice or would in any way be required for complete and proper adjudication of the matter in dispute and thus, is necessary. The impugned order is not only well written, but also takes care of all the facts and attending circumstances.

9. No merit. Dismissed *in limine*.

(Dr. BHARAT BHUSHAN PARSOON)
JUDGE

February 18th, 2015
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