

In the High Court of Punjab and Haryana at Chandigarh

**Civil Revision No. 1081 of 2013
Date of Decision: 01.5.2015.**

Gurmit Singh

.....Petitioner

Versus

Swaran Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. A.S.Manaise, Advocate
for the petitioner.

Mr. Anil Chawla, Advocate
for respondents No. 1 to 5.

SABINA, J.

Petitioner has filed this petition under Article 227 of Constitution of India challenging the order dated 22.1.2013 (Annexure P-7) whereby application moved by the petitioner under Order 6 Rule 17 of the Code of Civil Procedure, 1908 ('CPC' for short) for permission to amend the plaint, was dismissed.

I have heard the learned counsel for the parties and have gone through the record available on the file carefully.

Order 6 Rule 17 CPC reads as under:-

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.

Thus, as per the above provision, the Court has ample power to allow either of the party to amend its pleadings which are necessary for the purpose of determining the real question in controversy between the parties. However, as per the proviso the application for amendment shall not be allowed after the trial has commenced.

Plaintiffs have filed suit for declaration to the effect that they were owners in possession of the suit land and the judgment/decreed dated 11.5.2002, was null and void and the sale deed executed on the basis of the said decree, was illegal, null and void. Plaintiffs further claimed relief of permanent injunction to the effect that the defendants be restrained from interfering in their peaceful possession over the suit property. During the pendency of the suit, plaintiffs moved an application for permission to amend the plaint and claimed the relief of possession. Initially, the case of the plaintiffs was that they were in possession of the suit land. Even during the course of arguments, learned counsel for the petitioner has submitted that the plaintiffs are still in possession of the suit property but the defendants have got an entry made in the *khasra girdawri* in their favour to the effect that they were in possession of the suit land. Since the plaintiffs had failed to specify as to when they were dispossessed qua the suit property, the learned Trial Court rightly dismissed the application moved by the

plaintiffs for permission to amend the plaint. Even otherwise, the application for permission to amend the plaint, had been filed after the trial had commenced. In fact, the trial was near completion when the application for amendment of the plaint was filed.

No ground for interference by this Court is made out.

Dismissed.

However, anything observed above will have no bearing on the merits of the case.

**(SABINA)
JUDGE**

May 01, 2015
Gurpreet