

In the High Court of Punjab and Haryana at Chandigarh

CR No. 1618 of 2015

Date of decision: 10.03.2015

Rajesh @ Raju

.....Petitioner

Versus

Rohtash and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr.Sudhir Hooda,Advocate
for the petitioner.

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SABINA, J

Petitioner has filed this petition challenging the order dated 17.4.2013 (Annexure P3) whereby the application moved by the respondent No.1-plaintiff under Order 6 Rule 17 of the Code of Civil Procedure, 1908 ('CPC' for short), was allowed.

Learned counsel for the petitioner has submitted that the impugned order dated 17.4.2013 (Annexure P3) had been passed without affording an opportunity of hearing to the petitioner-defendant No.1.

Respondent No.1-plaintiff had filed the suit for permanent injunction restraining the defendants from interfering in his peaceful possession and not to dispossess him from the plot in question. During the pendency of the suit, respondent No.1 moved an application under Order 6 Rule 17 CPC for permission to amend the

plaint. A perusal of the application (Annexure P2) reveals that it was the case of respondent No.1 that after the filing of the suit, defendant No.1-petitioner had dispossessed him from the house in dispute. Therefore, the plaint was required to be amended by seeking amendment, Respondent No.1 wanted to incorporate in the plaint that on 28.9.2012, petitioner had encroached upon the house and, consequently, the prayer clause of the plaint was sought to be amended that a decree for possession may be passed in favour of respondent No.1 by directing the petitioner to hand over the possession of the disputed house to respondent No.1. A perusal of the impugned order dated 17.4.2013 (Annexure P3) reveals that the said order was passed in the presence of the counsel for the petitioner. Thus, the counsel for the petitioner was duly heard when the application moved by respondent No.1 for amendment of the plaint, was allowed.

In view of the facts and circumstances of the case, learned trial Court had rightly allowed the application moved by respondent No.1-plaintiff for permission to amend the plaint. No ground for interference by this Court is made out.

Dismissed.

**(SABINA)
JUDGE**

March 10,2015
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