

IN THE HIGH COURT OF PUNJAB AND HARYANA, AT
CHANDIGARH

CR No. 2421 of 2015

Date of Decision: 08.04.2015

Dr. Saroj Punia

.....Petitioner

Vs.

Hawa Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. B.S. Bedi, Advocate,
for the petitioner.

SABINA, J.

Petitioner has filed this petition challenging the order dated 11.03.2015, whereby application moved by the petitioner for permission to amend the plaint, was dismissed.

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

Order 6 Rule 17 of the Civil Procedure Code, 1908 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, parties can be permitted to amend their pleadings but 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 parties could not have raised the matter before the commencement of trial.

In the present case, petitioner has filed suit for mandatory injunction directing defendant No. 1 to transfer the allotment of plot No. 1431-P Sector 25, HUDA Panipat, in the name of the plaintiff in pursuance of agreement to sell dated 02.12.2002, executed by defendant No. 1, in favour of the plaintiff and directing the defendants to execute sale deed, in favour of the petitioner.

In support of his case, petitioner led his evidence. When the case was listed for rebuttal evidence, if any, of the plaintiff and arguments, petitioner moved an application for permission to amend the plaint. By way of amendment, petitioner wants to claim the relief of possession by way of specific performance instead of mandatory injunction and in the alternative petitioner wants to claim the relief of recovery of ₹11,46,124/-. Learned trial Court has rightly rejected the application, moved by the petitioner as the petitioner was aware of the relief now sought to be claimed by her at the time of filing the suit. Application had apparently been filed just to delay the proceedings.

No ground for interference is made out.

Dismissed.

**(SABINA)
JUDGE**

April 08, 2015
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