

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No. 2375 of 2014 (O&M)
Date of Decision: 10.3.2015.

Devinder Singh

.....Petitioner

Versus

Kuldip Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. V.K.Sandhir, Advocate
for the petitioner.

Mr. M.K.Bhatnagar, Advocate
for respondents No. 1 and 3 to 5.

None for respondents No. 6 to 8.

SABINA, J.

Petitioner has filed this petition under Article 227 of Constitution of India challenging the order dated 20.1.2014 (Annexure P-5) whereby application moved by the petitioner-plaintiffs under Order 6 Rule 17 of the Code of Civil Procedure, 1908 ('CPC' for short) for amendment of the plaint, was dismissed.

Learned counsel for the petitioner has submitted that by way of the amendment, plaintiffs wanted to restrict their claim to khasra No. 38/1/2/1 (1-4).

Learned counsel for respondents No. 1 and 3 to 5, on the other hand, has opposed the petition.

Petitioner and others have filed suit for permanent injunction restraining the defendants from interfering, intermeddling or from forcibly dispossessing them from the land measuring 102 *kanals* 6 *marlas*. During the pendency of the suit,

plaintiffs moved an application under Order 6 Rule 17 CPC (Annexure P-4). By way of the amendment, plaintiffs wanted to restrict their claim and wanted that the head note of the plaint be read as 'suit for permanent injunction restraining defendants from interfering, intermeddling or from forcibly dispossessing them from the land bearing khasra No. 38/1/2/1 (1-4)'. Consequent amendments were also sought in the plaint. Thus, by way of the amendment, plaintiffs wanted to restrict their claim with regard to 1 *kanal* 4 *marlas* of land only and wanted to give up the claim qua 102 *kanals* 6 *marlas* of land. The Trial Court fell in error in construing that in case amendment was allowed, a *denovo* trial would begin. In fact, plaintiffs want to give up their claim so far as 102 *kanals* 6 *marlas* of land bearing khasra No. 107/15 (7-7), 107/17 (8-0), 107/24/2 (4-12), 107/7(7-8), 119/15 (8-0), 119/8 (7-7), 38/1/2/2 (6-7), 38/10 (7-7), 38/5/2 (0-13), 38/7 (8-0), 38/8 (8-0), 38/9 (7-19), 596/2/0 (1-4), 61/23/3 (2-13), 61/22(7-18), 85/5/2(1-15), 85/2 (7-16), is concerned and want to continue the suit only with regard to khasra No. 38/1/2/1 (1-4). Plaintiffs could give up the part of the claim during the pendency of the suit and by way of amendment they only wanted to do that.

Accordingly, this petition is allowed. Impugned order dated 20.1.2014 (Annexure P-5) is set aside. Consequently, application moved by the petitioner under Order 6 Rule 17 CPC (Annexure P-4), is allowed.

**(SABINA)
JUDGE**

March 10, 2015
Gurpreet