

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CR 30 of 2015

Date of Decision: May 19, 2015

Richpal Singh

.....Petitioner

Vs.

Gulzar Singh and ors.

.....Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

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Present:- Mr.Rakesh Gupta, Advocate
for the petitioner.

Mr. Arun Bansal, Advocate

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M.M.S. BEDI, J.(ORAL)

Plaintiff- petitioner had filed a suit for mandatory and permanent injunction restraining the defendant- respondents in context to a dispute regarding a passage described in the plaint. While the case had reached at the stage of rebuttal evidence, plaintiff- petitioner filed an application under Order 6 Rule 17 CPC seeking to incorporate the additional relief of declaration regarding the existence of the property in dispute. The said application has been dismissed on the ground that the trial has commenced and the case is at the final stage of the evidence.

Learned counsel for the plaintiff- petitioner has submitted that the controversy regarding the rasta is already part of the pleadings and that by permitting plaintiff- petitioner to incorporate the prayer for declaration will not either change the nature of the suit nor it would cause prejudice to any one. He has given an undertaking that the plaintiff - petitioner does not want to lead any additional evidence in case the amendment is allowed. The amendment, which is sought for, would be pressed for only at the time of the arguments on the basis of the material, which is already available.

The contentions have been opposed by counsel for respondent No.1.

I have considered the facts and circumstances of this case. In view of the fact that the declaration which has been sought for is not contradictory or tangent to the original relief of permanent injunction and statement of the counsel that no additional evidence would be required to be produced, I do not find any reason for not permitting the petitioner to raise the claim for declaration by amending the suit.

Revision petition is allowed. The order dated December 11, 2014 is hereby set aside. Amendment of the plaint is allowed by permitting the plaintiff to incorporate the plea of declaration pertaining to the property which is already subject matter of the suit subject to the condition that a cost of Rs.5000/- will be paid by the plaintiff-petitioner to the defendants before the trial Court on next date of hearing. It is further directed that no additional evidence will be permitted to be led by the plaintiff – petitioner by

the Court on the ground that the amendment has been allowed. The amended plaint is permitted to be taken on record with liberty to the defendant- respondents to file reply. It will be open to the trial Court to reconsider whether there is need for framing any additional issue. The plaintiff- petitioner will not be entitled to lead any evidence after amendment or framing of any additional issue.

May 19, 2015
sanjay

(M.M.S.BEDI)
JUDGE