

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR No. 3632 of 2014 (O&M)

Date of decision: 31.07.2015

Jaswinder Kaur

... Petitioner

versus

Gurbax Singh

.... Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Devinder Singh Gurna, Advocate for the petitioner.

Mr. Hitesh Pandit, Advocate for the respondent.

K.Kannan, J.

In a suit for injunction based on an agreement of sale that later functified to a sale deed but not registered, was instituted in the year 2010. When the sale deed was denied by the defendant the plaintiff had originally filed the suit for injunction. He had sought for amendment of the relief for specific performance treating the sale deed as evidence of agreement and for its enforcement. The relief was perfectly competent and the Court should have allowed the same. It has denied the right to the plaintiff on the ground that the plaintiff already knew that he could have claimed such a right even at the time of the original institution. If the plaintiff thought of protecting his possession by means of injunction on an assumed basis that the defendant was admitting to his obligations under

the sale deed which he had to register and later realised that the defendant was setting up pleas inconsistent with the obligations, it should have been possible for the plaintiff to come with independent suit for the specific performance. However, if the dispute was only between the parties already at lis in respect of the very same property it was competent for the plaintiff to amend the suit for relief only to avoid multiplicity of actions. No prejudice could have been caused to the defendant for, what would have been competent for him to do in an independent suit he will be permitted to do in the present suit itself.

The prejudice could have been in a situation where the plaintiff could have been barred by limitation if a fresh suit were to be instituted. There could be no such contention, for, the unregistered sale deed was of the year 2010 and the relief of specific performance was sought in the year same 2011.

The impugned order is set aside and the revision petition is allowed.

(K.KANNAN)
JUDGE

31.07.2015

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