

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

**CR No.4719 of 2015
Date of decision: 27.08.2015**

Balwant Singh and others

... Petitioners

Vs.

Piara Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. Varun Jain, Advocate
for the petitioners.

AMIT RAWAL J. (Oral)

Challenge in the present petition is to the impugned order dated 25.03.2015 (Annexure P-5), whereby, the application filed by the respondent-plaintiff for amendment of the plaint has been allowed.

Mr. Varun Jain, learned counsel appearing on behalf of the petitioners-defendants submits that suit, ex facie for injunction, was not maintainable as parties to the lis are co-sharers. The application seeking interim injunction, vide order dated 18.12.2012, had already been dismissed. The application for amendment of the plaint had been filed on 29.09.2013, whereby, the entire character and nature of the suit has been amended, altered which is not

permissible, therefore, the impugned order suffers from illegality, infirmity and perversity.

I have heard learned counsel for the petitioners and appraised the paper book.

It is a matter of record that application filed under Order 39 Rules 1 and 2 CPC has been dismissed on 18.12.2012. It is not discernible from the averments made in the petition as whether the appeal filed against the aforementioned order has been disposed of or is still pending.

Be that as it may, amendment which has been allowed, does not suffer from any illegality, infirmity and perversity. It is clarificatory and elaboratory in nature.

Mr. Varun Jain, Advocate has expressed apprehension that under the garb of the amendment, where the relief of demolishing of *jhuggian* has been sought, the respondent-plaintiff may not move another application under Order 39 Rules 1 and 2 CPC, in my view, such apprehension has some force, for the reason that application for amendment has been filed subsequent to the dismissal of the application under Order 39 Rules 1 and 2 CPC.

It is made clear that respondent-plaintiff shall not be permitted to seek interim injunction after passing of the impugned order, on the basis of amendment in plaint, but that would not, prevent him to seek any interim order, for any event, which may arise subsequently or in future.

With the aforementioned observations, order dated 25.03.2015, Annexure P-5 is upheld and the revision petition stands disposed of.

(AMIT RAWAL)
JUDGE

August 27, 2015
savita