

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CR No. 4650 of 2013 (O&M)

Date of decision: 20.03.2015

Bir Bhan and others

... Petitioners

versus

Avinder Kaur and others

.... Respondents

**CORAM: HON'BLE MR. JUSTICE K. KANNAN**

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Present: Mr. V. M. Gupta, Advocate and  
Ms. Sonal Dutta, Advocate for the petitioners.  
Mr. S. S. Salar, Advocate for the respondents.

**K.Kannan, J.**

The petition for an amendment was allowed with reference to the plaintiff's plea that in a suit for declaration and injunction, the defendants dispossessed the plaintiffs in October 2010. The defendant-petitioner has an objection that he had purchased the property on 25.09.2001 and the entries had also been changed in his name in the revenue records. The case is pending since 2001 and issues were framed on 02.04.2009. The application is now filed only to further delay the proceedings and the amendment for recovery of possession cannot be ordered.

If the petitioner's case for declaration were to succeed, he is bound to prove his title on the date of institution of the suit, particularly, in view of the fact that the source of title is adverse possession, irrespective of whether he was dispossessed in October 2010 or not. The amendment cannot improve the situation for the plaintiff, unless he shows his title in the manner urged by him. The defendant also cannot be in any way prejudiced by an amendment if his contention were going to be that the plaintiff's contention that the defendant dispossessed him in October 2010 is not true or if it is not

established. In either case, the plaintiff will be non-suited if he cannot establish his right to the property. The date of when the plaintiff lost his possession is irrelevant in such an adjudication.

Learned counsel has a further grievance that the trial Court has not made any observation about when the amendment will come into effect, namely, whether on the date of institution of the suit or from the date of the amendment. This will have relevance only in a case where the plaintiff's suit will be otherwise barred by limitation, if the amendment were to take effect from the date when the amendment was filed or ordered and not taken as brought when the suit was filed.

When the plaintiff himself brings an amendment as a subsequent event after the institution of the suit, it is meaningless to contend that there must be an observation about when the amendment will come into effect. The amendment is of a subsequent event and that statement will have no bearing to the date of institution of the suit.

There is no illegality in the order which calls for intervention.

The civil revision petition is dismissed with above observations.

**(K.KANNAN)**  
**JUDGE**

20.03.2015  
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