

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

C. R No. 5010 of 2015 (O&M)

Date of decision : 15.12.2015

Partap Singh

....Petitioner

versus

Ajit Singh and anr.

...Respondents

CORAM: **HON'BLE MS. JUSTICE RITU BAHRI**

Present: Mr. Malkeet Singh, Advocate
for the petitioner.

Mr. Naresh Prabhakar, Advocate
for respondent No. 1.

RITU BAHRI , J. (Oral)

Challenge in this petition is to order dated 13.07.2015 passed by learned Civil Judge (Jr. Divn.), Kapurthala, vide which the application filed by the petitioner for amendment of written statement under order 6 Rule 17 CPC, has been dismissed.

Respondent No 1/Plaintiff has filed a suit for possession by way of specific performance vide agreement to sell dated 25.07.2007 executed by respondent No. 2 (defendant No. 1) for sale of land measuring 8 kanal forming 1/3rd share in land measuring 24 kanals bearing khewat/khatoni No. 53/52 in/87, Khasra No. 122//13 (8-0),

(18-0) and 12 (8-0) along with share in the electric motor, kotha and tubewell bore with other rights, as per jamabandi for the year 2009-10.

A perusal of impugned order shows that the petitioner earlier filed two applications dated 17.08.2013 and 11.11.2013 and the application dated 11.11.2013 was allowed. Thereafter, the petitioner filed the present application for amendment of written statement on the ground that due to inadvertence, the petitioner could not mention about Civil Suit No. 396/2001, which was decreed on 14.09.2009. The application of the petitioner has been dismissed on the ground that there is no proper explanation as to why this fact has not been mentioned earlier and the petitioner is only trying to delay the proceedings.

Reference at this stage can be made to Order 6 Rule 17 CPC which reads as under:-

"17) Amendment of Pleadings - The court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties: Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial."

As per the above said rule, the Court may, at any stage of the proceedings, allow either party to alter or amend his pleadings in such a manner and on such terms as may be just. It also states that such amendments should be necessary for the purpose of determining the real question in controversy between the parties. The proviso enacts that no application for amendment should be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter for which amendment is sought before the commencement of the trial.

In the present case, the petitioner wants to mention about Civil Suit No. 396/2001, which was decreed on 14.09.2009. This is a judicial document and the amendment sought by the petitioner should have been allowed and it will not change the nature of the suit. The amendment is necessary for just decision of the case.

In view of the above factual position, order dated 13.07.2015 passed by learned Civil Judge (Jr. Divn.), Kapurthala is set aside and the proposed amendment sought by the petitioner is allowed

The revision petition stands allowed.

15.12.2015
G Arora

(RITU BAHRI)
JUDGE