

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

Civil Revision No.5190 of 2012 (O&M)

Date of decision: 30.07.2015

Fathey Singh

... Petitioner

versus

Ajit Singh and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Adarsh Jain, Advocate,
 for the petitioner.

Mr. Deepinder Singh, Advocate,
for respondent No.1.

K.Kannan, J. (*Oral*)

1. The plaintiff, during the pendency of a suit instituted in the year 2006, brought an event of acquisition of property which is the subject of agreement of sale to be pleaded and to seek for an alternative relief of recovery of compensation as determined.

2. The counsel for the respondent points out that the court below was justified in dismissing the application in a situation where the acquisition of property had been made even prior to the filing of the suit. Petition was being moved nearly 6 years after the event of acquisition. I find the plaintiff has been responsible for unnecessarily wasting the time of court by going through process of

the trial, when the property could not have sold, but the property had been acquired by the government. For sheer indiscretion in allowing for continuance of proceedings on a wrong track, I impose cost of ₹20,000/- against the plaintiff to be paid to the defendant. The issue of whether the plaintiff is entitled to the relief of claim as amended will be really a matter for adjudication after the amendment is brought and after the defendant is given an opportunity to file an amended written statement or additional written statement in the manner contemplated under Order 8 Rule 9 CPC. It shall be specifically confined to the aspect of amendment brought in the plaint. The court will then frame an additional issue regarding the prayer for the alternative relief and dispose of the case in accordance with law. The court shall ensure that the cost imposed by this court is paid by the plaintiff to the defendant before calling upon the defendant to file additional pleadings or amended pleadings in the manner referred to above.

3. The impugned order is set aside and the civil revision is allowed to the above extent.

(K.KANNAN)
JUDGE

30.07.2015
sanjeev