

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

C.R. No. 5553 of 2015 (O&M)

Date of decision:- 28.08.2015

Bijender

...Petitioner

Versus

Ved Pal

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Munish Mittal, Advocate
for the petitioner.

RITU BAHRI J.

Defendant/Petitioner Bijender (for short 'petitioner') has filed the instant revision petition under Article 227 of the Constitution of India assailing order dated 30.05.2015 (Annexure P-5) passed by learned Civil Judge (Junior Division) Jhajja whereby an application filed by the plaintiff-respondent to amend the plaint under Order 6 Rule 17 CPC has been allowed.

The above said application has been allowed when the suit is fixed for replication and issues. After filing of the written statement by the petitioner, he had raised the construction over the plot in question belonging to the petitioner and thus the amendment application was filed.

Order 6 Rule 17 reads as under:-

17. Amendment of Pleadings.- *the Court may at any stage at 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.

I have heard learned counsel for the petitioner and perused the case file.

This rule has been considered in a numerous judgments of this Court as well as Hon'ble the Supreme Court wherein it has been held that a liberal approach is to be adopted in allowing the amendment in pleadings.

Reference at this stage can be made to a judgment of Hon'ble the Supreme Court in a case of K. Kannon v. K. Jayalakshmi 2004(13) SCC 41 and Rajesh Kumar Aggarwal and others vs. K.K. Modi and others 2006(2) Apex Court Judgments 583 (S.C) wherein it has been held that the object of the rule is that the Courts should try the merits of the case that come before them and should, consequently, allow all amendments that may be necessary for determining the

real question in controversy between the parties, provided it does not cause injustice or prejudice to the other side.

In the present case, since the present petitioner had raised the construction over the plot in question belonging to the petitioner, in his absence, it becomes necessary for the respondent to amend the plaint. The application has thus rightly been allowed

The revision petition is dismissed being devoid of any merits.

August 28, 2015
G Arora

(**RITU BAHRI**)
JUDGE