

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.558 of 2015
Date of Decision: October 6, 2015

Smt.Rani Verma & another

...Petitioners

Versus

Arjun Dev

...Respondent

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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

Present: Mr.Kul Bhushan Sharma, Advocate,
for the petitioners.

Mr.Amit Kumar Jain, Advocate,
for the respondent.

AMIT RAWAL, J. (Oral)

The challenge in the present revision petition is to the impugned order dated 10.11.2014 (Annexure P-1) passed by the Additional Civil Judge (Senior Division), Safidon, whereby the application filed by the respondent-plaintiff seeking amendment of the plaint, vis-a-vis incorporating relief of possession and demolition of the construction, alleged to have been raised on the suit property during the pendency of the suit, has been allowed.

Mr.Kul Bhushan Sharma, learned counsel appearing on behalf of the petitioner-defendants submits that it has been a categorical stand in the written statement that on the plot, which has been purchased by the defendants from the plaintiff, double storey construction has already been raised and there is no replication to that. The plea of seeking amendment on the premise that the construction had been raised during the pendency of the suit is

wholly preposterous and misconceived as no date of construction, much less, month and year has been mentioned. The amendment cannot be permitted at the stage of evidence in view of the amended provisions of the Civil Procedure Code.

Mr.Amit Kumar Jain, learned counsel appearing on behalf of the respondent-plaintiff submits that no prejudice would be caused to the petitioner-defendants in case the amendment is allowed as it would enable the Court in adjudication of the lis between the parties. The amendment sought is a subsequent event and, therefore, the application was moved at proper stage. Even an application under Order 39 Rule 2-A CPC for violation of the status-quo order passed by the Lower Appellate Court in respect of the proceedings initiated under Order 39 Rule 1 & 2 CPC had been filed.

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

A perusal of the application seeking amendment of the plaint reveals that the respondent-plaintiff has sought to incorporate the following amendments:-

“i) At the end of the head note and the relief clause the following would be added:-

“and for demolition of the construction and possession of the same with mesne profit @ Rs.5,000/- per month”

ii) Para No.5(A) would be added as under:-

5-A That the defendant during pendency of the suit and in spite of injunction order from the Court has forcibly raised construction on the suit property which is liable to be demolished and the defendant is liable to be directed to hand over vacant possession of the suit property to the plaintiff and also to pay mesne profits @ Rs.5,000/- per month which is the market letting value of the suit property.”

The aforementioned amendment, in my view, would not

alter the nature of the suit, much less, cause prejudice to the petitioner-defendants as they would have a right to rebut the same. It would be a matter of evidence as to whether construction on the plot was raised prior to the filing of the suit or thereafter. The law with regard to the amendment is very liberal. In case this event occurred after the filing of the suit, the respondent-plaintiff cannot be prevented from seeking the amendment. It is open for the parties to lead evidence in support of their claims, vis-a-vis the construction on the plot.

I do not find any illegality and perversity in the impugned order, whereby the application seeking amendment has been allowed. The impugned order cannot be said to have been passed without jurisdiction.

Accordingly, the revision petition is dismissed.

October 06, 2015
ramesh

(AMIT RAWAL)
JUDGE