

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

CR No.6093 of 2015 (O&M).

Date of Decision: 09.10.2015.

Pawan Kumar Sharma

....Petitioner.

VERSUS

Pepsu Township Development Board and another

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. A.S. Sidhu, Advocate for the petitioner.
Mrs. Pallavi Pahwa, Advocate for respondents.

SNEH PRASHAR, J.

By way of this civil revision, the petitioner has assailed the order dated 08.07.2015 passed by learned Civil Judge (Junior Division), Rajpura dismissing the application under Order VI Rule 17 of the Code of Civil Procedure (for short, “the Code”) filed by the petitioner-plaintiff in Civil Suit No.358 RT of 27.07.2012.

The relevant facts are as under:-

A suit for mandatory injunction seeking direction to the respondents-defendants to comply with the terms and conditions of auction of Plot No.441, situated at Guru Arjun Dev Vistar Colony, Rajpura, Township was filed by the petitioner-plaintiff. During pendency of the suit, the petitioner filed an application under Order VI Rule 17 read with Section 151 of the Code for amendment of the plaint. It was submitted that by way

of the proposed amendment, the petitioner intends to explain the extent of completion of development and delivery of possession of plot by making some additions in the head note of the plaint.

The case was at its final stage and learned trial Court finding that the amendment would change the nature of the suit/relief sought, dismissed the application vide order dated 08.07.2015. Feeling aggrieved by the said order, the instant civil revision has been filed.

The submissions made by Mr. A.S. Sidhu, learned counsel representing the petitioner and Mrs. Pallavi Pahwa, learned counsel representing the respondents have been considered.

Indeed, the petitioner by way of proposed amendment intends to raise a new set of relief i.e. 'a period of three years be given for construction after the completion of development work'. The suit of the petitioner was for mandatory injunction seeking directions to the defendants to comply with the terms and conditions of auction etc. by providing development work. A permanent injunctive order was also sought against the respondents-defendants from effecting recovery of penalty etc. In the pleadings, it was nowhere mentioned that a period of three years for construction of house was to be given after completion of development work.

Learned counsel for the petitioner submits that amendment in the heading of the plaint by adding only the development work as enumerated in first part of in para No.2(A) of his application be only allowed and he undertakes that in case the evidence of the petitioner has

already been closed he will not lead any fresh evidence in affirmative on the amendment sought.

Though it appears from the certified copy of the impugned order dated 08.07.2015 of learned trial Court, annexed with the petition that the particulars of development work as mentioned in Para No.2(A) in the application of the petitioner for amendment were already pleaded, yet if not incorporated in the heading of the original plaint, the same are allowed to be added by way of amendment. The addition of the sentence being allowed is as under:-

“development work such as construction of roads, supply of water, installation of electricity, sewerage, street light etc.”

However, the remaining portion of the sentence that 'the period of three years be given for construction after the completion of development work' is declined. As regards, prayer sought to be added as mentioned in Para No.2(B) and 2(C) in the application, learned trial Court rightly declined the same finding that by way of amendment the petitioner intended to set up a new case.

Accordingly, the limited prayer of the petitioner, as observed above, is allowed. In case the evidence of the petitioner in affirmative has already been closed, he will not be given any chance to adduce fresh evidence.

The petition is disposed of.

(SNEH PRASHAR)
JUDGE

09.10.2015.
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