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

Civil Revision No. 6127 of 2013

Date of Decision: December 04, 2015

Satnam

-Petitioner

Vs.

Ram Sarup and others

-Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. S. K. Yadav, Advocate
for the petitioner.

RAJ MOHAN SINGH, J. (ORAL)

{1}. Challenge in this revision petition is to the order dated 13.08.2013 vide which amendment of plaint in terms of Order 6 Rule 17 CPC has been allowed subject to payment of ₹ 500/- as cost. A plea of mandatory injunction is sought to be added by stating that defendants have constructed a Chajja during pendency of suit on 06.07.2010. Both the parties were directed to maintain status quo. A Local Commissioner was also appointed to submit his report on 19.07.2010, according to

which, defendants have constructed a Chajja on specified dimensions. Plaintiff also filed contempt proceedings. Since the suit is at preliminary stage, subsequent events can always be brought on record by way of amendments. Since Chajja has been constructed after the passing of interim order dated 06.07.2010, that fact itself is sufficient to allow the amendment in pleadings. It is a settled principle that amendment of pleadings has to be liberally construed so as to consider the real dispute between the parties and to decide the case in just and appropriate manner. The proviso to the rule to some extent curtails absolute discretion of the Court to allow the amendment at any stage, however, knowledge and due diligence are the considerations on which bona fide of the party has to be tested in order to prevent frivolous claim for amendment of pleadings. The object is that the Court must try the case on merits and to allow the amendment which may be necessary for determining the real controversy between the parties.

{2}. Order 6 Rule 17 CPC is in two parts. First part is discretionary and leaves it to the Court to order amendment in the pleadings. Second part is in imperative and enjoins the Court to allow all amendments which are necessary for determining real issues between the parties. All amendments are to be allowed while satisfying the aforesaid two conditions.

The conditions are that the amendment sought would not be

unjust and results in prejudice against the opposite party which would not be compensated in terms of cost or would deprive the opposite party to have valuable right which accrues to him with the passage of time. If the aforesaid conditions are tested in the context of present case, there would be no impediment in allowing the prayer for amendment of the plaint because suit itself is at initial stage and it is the folly or mis-conduct of the defendant which is sought to be highlighted and brought on record by way of amendment in question.

{3}. Having considered the issue, I found that there is no error of jurisdiction and illegality in the impugned order. Resultantly, this revision petition is accordingly dismissed.

December 04, 2015

jyoti

**(RAJ MOHAN SINGH)
JUDGE**