

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

CR No. 6052 of 2012 (O&M)
Date of decision: July 21, 2015

Bijender Singh and another

...Petitioners

Versus

Raj Kumar Gupta

...Respondent

CORAM:- HON'BLE MR. JUSTICE K. KANNAN

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. Adish Gupta, Advocate,
for the petitioners.

Mr. Rajesh Arora, Advocate,
for the respondent.

K. KANNAN, J. (Oral)

1. The revision is against the order declining an application for amendment of the plaint. The suit has been filed with reference to ½ share of a plot which is said to be a shop of total area measuring 29 square yards set down within four boundaries. There is a reference in the plan about the suit property as having been purchased through a document dated 13.11.2009. The statement has been filed and the issues have been settled. Before commencement of the trial and examination of the witnesses, an application for amendment has been filed making reference to the fact that on inspection from the municipal record, it was found that the property was comprised in Khasra No. 1808 in the names of their vendors and their own purchase relates to the part of the property in the said khasra number. The

plaintiffs were, therefore, trying to bring identity of the property with additional details through municipal plan and a specific reference to a khasra number. The application was contested by the defendant as substituting a new property which belongs to him and in any event the plaintiffs by exercise of due diligence ought to have known the correct details of the property even at the time of institution of the suit and the application for amendment does not conform to the requirement of law under Order 6 Rule 17 CPC in its amended form. The trial court allowed the objection to prevail and dismissed the application, hence the revision petition.

2. I have gone through the plaint and there is a definite reference to the boundaries of the property, extent and the source of title. If the plaintiffs provide for further details regarding khasra number and seek identification through a plan brought as the basis for such amendment, I will only take this to be facilitation for the court to grant or reject the plaintiffs' case with appropriate details. If the contention of the defendant were to be that the khasra number really refers to his own property and that further plaintiffs sale deed does not refer to the khasra number, it ought to be taken as objection that is possible at the trial and cannot be understood as a party bringing a whole new case substituting a whole new property. If there is a definite reference to the source of title through a registered document, the attempt of the trial court shall be to ensure that the claim made by the plaintiffs is only what was possible of being conveyed by his vendors within the boundaries described in the plaint. It is existing reality that the trial takes long time and if an application for amendment is brought even before the actual trial and examination of the witnesses commence, I will not find

any serious prejudice that could be caused by allowing for amendment and inviting the defendants to file amended statement or additional statement in the manner contemplated under Order 8 Rule 9 CPC only so far as the amended portion of the plaint is concerned.

3. For the indiscretion of the plaintiffs of not furnishing all the details and causing the defendant additional burden of having to confront with the additional application, I impose the costs of Rs. 10,000/- to be paid by the plaintiffs to the defendant within four weeks. The trial court shall ensure that the amount is paid before the commencement of the trial and before calling upon the defendant to file additional/amended pleadings, as referred to above.

4. The impugned order is set aside and the revision petition is allowed with the liberty as aforesaid.

July 21, 2015
prem

(K.KANNAN)
JUDGE