

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

**CR No.6666 of 2013 (O&M)
Date of decision : 21.09.2015**

Government of Jammu & Kashmir

....Petitioner

Versus

Kuldip @ Kala

....Respondent

CORAM: HON'BLE MR. JUSTICE K.KANNAN

Present: Mr. Suvir Sehgal, Advocate
for the petitioner.

Mr. Pardeep Rajput, Advocate
for the respondent.

K.Kannan, J. (Oral)

The plaintiff, who filed a suit for recovery of possession of land measuring 2 kanals 15 marlas in the year 2006 had not set out the description of the property in the manner required under law particularly of the requirement under Order 7 Rule 3 which mandates that the plaint shall contain a description of the property sufficient to identify with boundaries or numbers in a record for settlement of survey. The defence was that the property was not properly described and it was liable to be dismissed under Order 7 Rule 11 CPC. The plaintiff was cross-examined and before the defendant's evidence, an application was filed for amending the plaint by incorporation of Khasra Nos. 800, 802 to 804 on a plea that at the time of institution of suit, the khasra numbers were not known and when a dispute regarding the adjoining property came to be decided during the pendency of the suit, there had been reference to the property from which the khasra number for the suit property was also known to the plaintiff. Justification was therefore that the plaintiff did not know the particular details, which he gave by an amendment and which had not

been known at the time of institution of suit. The defendant has filed the statement denying the right to the property and contended that he was a tenant from the government and plaintiff is not entitled to relief. It was not as if the parties did not know the identity of the property for which they were litigating. I will, therefore not take any serious prejudice to the defendant or that the plaintiff was attempting to substitute some property which was not the subject of the dispute.

The statutory requirement of proper description is only to ensure that the parties understand what they are litigating for. The plaint surely contained a flaw, which could have even resulted in a dismissal not on merit but on account of vagueness in the description of property. The law provides for a particular course allowing a suit to be withdrawn with liberty to file fresh suit in such like instances. If a withdrawal was possible to file a fresh suit, that precisely ought to be the reason also for the plaintiff to amend the plaint itself to prevent multiplicity of proceeding.

I would, therefore, allow for the amendment to be brought and set aside the order passed by the Court below by declining the same. The defendant ought to be compensated in terms of money for the delay in bringing the amendment. I impose costs of Rs.10,000/- be paid to the defendant by the plaintiff, failing which the order already passed has been confirmed. The cost shall paid to the defendant within a period of four weeks from the date of receipt of certified copy of the order.

The revision petition is allowed on above terms.

21.09.2015
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(K.KANNAN)
JUDGE