

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR No. 6717 of 2013
Date of Decision : 21.01.2015

Sanjay Kumar

....Petitioner

Versus

Municipal committee and another

...Respondents

CORAM: HON'BLE MR. JUSTICE R.P. NAGRATH

Present: Mr. Parminder Singh, Advocate
for the petitioner.

Mr. Sachin Gupta, Advocate
for respondent no. 1.

Mr. P.C. Gupta, Advocate
for respondent no. 2.

R.P. Nagrath, J. (Oral)

Challenge in the instant petition is to the order dated 07.10.2013 (Annexure P-4) passed by the trial Court whereby application filed by the petitioner for amendment of the plaint to incorporate subsequent events, has been dismissed.

I have heard learned counsel for the parties, carefully perused the impugned order and the paper-book.

Learned counsel for the petitioner submits that the petitioner proposes to incorporate the subsequent events that happened in the month of October, 2011. The suit was instituted on 16.04.2011. The contention of the petitioner in the application filed under Order VI Rule 17 CPC is as under:-

“That on 15.10.2011 the defendant no. 2 alongwith some other persons forcibly constructed the wall in

between the gali in front of the back door of the house of the plaintiff/applicant. The defendants have no right to raise the wall in the gali and to close the gali by way of raising the wall as the gali in dispute is a public place carved out by the Municipal Committee, Taraori, hence it has become incumbent upon the plaintiff/applicant to seek the additional relief of Mandatory Injunction and to amend the plaint.”

The consequent amendments were also prayed.

If that be so, the trial Court should have allowed the amendment especially when learned counsel for the petitioner has stated that the petitioner-plaintiff would not lead any further evidence in case the amendment is allowed.

In view of the above, the instant petition is allowed and the impugned order dated 07.10.2013 is set aside. The petitioner would not be able to lead additional evidence after the amendment is made whereas the respondents could file written statement to the amended plaint and also to lead additional evidence, if required.

January 21, 2015
jk

(R.P. NAGRATH)
JUDGE