

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

(1) CR No.6648 of 2012.  
Decided on:-February 11, 2015.

Ujjagar Singh. ....Petitioner.

Versus

Jagpal Singh and others .....Respondents.

(2) CR No.6656 of 2012.

Ujjagar Singh. ....Petitioner.

Versus

Harpreet Singh and others .....Respondents.

CORAM: HON'BLE MR. JUSTICE DR. BHARAT BHUSHAN PARSOON.

Argued by:- Mr. K.S. Boparai, Advocate  
for the petitioner.

Mr. Sanjeev Sharma, Senior Advocate with  
Mr. Hoshiar Singh, Advocate  
for the respondents.

**Dr. Bharat Bhushan Parsoon, J.**

The aforementioned two civil revision petitions filed by the  
defendant, petitioner herein in both the revision petitions, are directed

against orders dated 23.8.2012 of the lower court in two civil suits No.252 and 253 of 2005 whereby applications under Order VI Rule 17 CPC filed by the plaintiffs, respondents herein, were allowed.

2. As the matter in issue involved in both the petitions is the same, therefore, the same are being taken up together for adjudication. However, for convenience and clarity, facts have been taken from CR No.6648 of 2012.

3. A suit titled “Jagpal Singh and others Versus Ujjagar Singh” for specific performance of oral agreement of sale arrived at between the parties which later was acknowledged, confirmed and reduced into writing in the form of sale deed dated 25.5.2005 executed by the petitioner-defendant in favour of the respondents-plaintiffs qua the suit land, and for permanent as also mandatory injunction, is pending adjudication before the lower court.

4. During pendency of the suit, as per the plaintiffs, they were dispossessed from the suit land on the night falling between 20/21.4.2011 with the help of anti-social elements and even resistance by the plaintiffs and their friends and relatives could not be of any help. Sequel, amendment in the plaint was sought to incorporate these subsequent events in the plaint. Though this application was strongly resisted by the defendant, petitioner herein, but the lower court finding merit in the application, allowed the same vide order dated 23.8.2012, which is under challenge in this revision petition.

5. Counsel for the defendant, petitioner herein, has urged that where amendment of the plaint is devoid of merit, it should not be allowed. In support of his contention, support has been sought from ***Revajeetu Builders & Developers Versus Narayanaswamy and sons and others 2010(1) RCR (Civil) 27 (SC)***. Reliance has also been placed upon ***J. Samuel***

***and others Versus Gattu Mahesh and others 2012(1) RCR (Civil) 903 (SC); Vidyabai and others Versus Padmalatha and another 2009(1) RCR (Civil) 763 (SC); Ashok Kumar Laroia Versus Vijay Kumar and another 2011(5) RCR (Civil) 268 (P&H); R.P.S. Associates Versus Om Parkash @ Hari Singh and others 2012(5) RCR(Civil) 109 (P&H); Parbhati Lal Versus Dalip Singh and another 2012(4) RCR (Civil) 1007 (P&H) and Ajendraprasadji N. Pande and another Versus Swami Keshavprakeshdasji N. and others 2007(1) RCR (Civil) 482 (SC).***

6. The question posing for an answer is as to whether the amendment sought for is necessary for proper, complete, competent and wholesome adjudication of the matter in controversy or not?

7. When the attending facts and circumstances are considered, there is no dispute that the amendment allowed by the lower court is necessary for complete and effective adjudication of the rival claims of the parties.

8. Claim of the petitioner-defendant that the plaintiffs were never in possession and hence, the question of their dispossession during the pendency of the suit is non-existent, is a matter touching the merits of the case. This plea raised by the defendants is to be considered by the trial court after parties lead their evidence. In short, merits of the amendment sought are not to be adjudicated for determining the question as to whether the amendment is necessary or not? It is not the case of the defendant, petitioner herein, that this fact was already in the knowledge of the plaintiff and should have been pleaded earlier on exercise of due diligence. It is a subsequent event which happened during pendency of the proceedings of the suit. Refusal of amendment would not only cause prejudice to the plaintiffs but would also blur the real issues before the court and adjudication would

neither be complete nor effective. Rather, the plaintiffs cannot be rendered remedy-less and cannot be made to suffer from raising of the issue of alleged dispossession during the pendency of the suit in any other or collateral proceedings. The interest of justice required allowing of this application and the lower court has rightly taken into consideration all the relevant facts and collateral circumstances.

9. In ***Abdul Rehman and another Versus Mohd. Ruldu and others 2012(4) RCR(Civil) 481 (SC)***, the Hon'ble Apex Court held that the power of amendment should be exercised in the larger interest of doing full and complete justice between the parties. In ***Sampath Kumar Versus Ayyakannu and another 2002(3) Civil Court Cases 364 (SC)*** holding that merits of the averments sought to be incorporated by way of amendment, are not to be judged at the stage of allowing prayer for amendment, it was further held that to avoid multiplicity of litigation, amendment, if necessary, should be allowed. Even in ***Surender Kumar Sharma Versus Makhan Singh 2009(4) RCR (Civil) 597 (SC)***, Hon'ble Apex Court has held that amendment should be allowed if the same is necessary for doing the complete justice. Support in this regard has also been sought from ***Shashikant Jagannath Powar Versus Baburao Huvappa Kurhade 2013(2) Civil Court Cases 454 (Bombay)***; ***Gurmail Singh @ Kaka Singh Versus Ran Singh and others 2012(3) PLR 65 (P&H)***; ***Kailash and another Versus Yasina and others 2009(4) PLR 702 (P&H)***; ***Lallu Versus Nirdosh Kumar 2010(7) RCR (Civil) 2026 (P&H)***; ***Sumeer Jassal Versus Smt. Pushpa Rani and others 2012(3) PLR 311 (P&H)***; ***Jagnabalkya Chakraborty Versus Bidyarthi Chakraborty and others 2006 AIR (Gauhati) 120***; ***Ambeshwar Grih Nirman Sahakari Ltd. Versus Pawan Kumar Sharma and others 2010(7) RCR (Civil) 2948 (Rajasthan)***; ***Ashwani Kumar Aggarwal Versus Shanti Lal 2008(2) RCR (Civil) 452***

***(P&H) and Shakuntala Balasaheb Balsaraf since deceased through her legal heirs and others Versus Ramdas son of Laxman Balsaraf and others 2013(2) Civil Court Cases 375 (Bombay)***. In all these authorities, it has been held that if the amendment incorporates the subsequent events and is necessary for complete and effective adjudication of the matter, the same should be allowed.

10. Considering from all angles, plea of the defendant, petitioner herein, that the amendment allowed by the lower court was neither necessary nor required, is found to be devoid of merit.

11. Keeping in view the totality of facts and circumstances as discussed earlier, the applications for amendment were rightly allowed by the lower court vide impugned orders dated 23.8.2012.

12. Sequelly, affirming the impugned orders, both these petitions, being devoid of any merit, are dismissed.

**(Dr. Bharat Bhushan Parsoon)**  
**Judge**

**February 11, 2015**

'Yag Dutt'

1. Whether Reporters of local papers may be allowed to see the judgment? Yes
2. Whether to be referred to the Reporters or not? Yes
3. Whether the judgment should be reported in the Digest? Yes