

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

CR No. 6987 of 2012 (O&M)

Date of decision: April 30, 2015

Ravinder Kumar

...Petitioner

Versus

Avtar Singh

...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. Jaideep Verma, Advocate,
for the petitioner.

Ms. Nidhi Ayer, Advocate,
for the respondent.

K. KANNAN, J. (Oral)

1. In a suit for injunction filed by the plaintiff contending that he was in possession of the property, the plaintiff had applied for appointment of a Local Commissioner to inspect the property and give a report of physical features. At the time of inspection, it revealed that the defendant had already commenced his construction and report, therefore, brought out the physical features relating to the new construction that was going on at the time when the inspection was made. The plaintiff, therefore, sought to amend the relief of prohibitory injunction to a relief of mandatory injunction for removal of the construction made by the defendant. The institution of the suit had been originally against Avtar Singh and when he learnt that Avtar Singh purported to represent Gurmit Kaur as power of attorney, the plaintiff moved an application for impleadment of said Gurmit Kaur also. The application was contested by the respondent making a reference to the fact that his own principal earlier in point of time when Arjun Singh was the

owner through a document dated 30.8.2011 and the plaintiff was making a claim through several successive transactions of sale that took place subsequently cannot make the lawful claim in relation to the property. The objection prevailed and the court below dismissed the application for amendment.

2. I hold the order to be wrong. If prohibitory injunction is sought to be amended for mandatory injunction taking note of an event that was recorded through the Local Commissioner report that construction had been made at the property, to prevent needless multiplicity of litigation, it was only appropriate that the plaintiff was making necessary amendment for relief of mandatory injunction. Again if the original institution was against Avtar Singh, who turned out to be a power of attorney for Gurmit Kaur, it was only appropriate that the relief is claimed against the principal and not merely the power of attorney. If the principal was known to be Gurmit Kaur, the impleadment of Gurmit Kaur was also essential for a just adjudication. An objection regarding the respondent having better title would hardly be relevant for consideration of an application for amendment. After all by the amendment, the court was not decreeing the plaintiff's suit. It was only making possible for the parties to enter contest on their respective pleadings.

3. The impugned order cannot be supported. It is set aside and the amendment is ordered as sought for.

4. The revision petition is allowed. No costs.

April 30, 2015
prem

(K.KANNAN)
JUDGE