

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

**CM-5920-CII-2015 in/and  
CR-7371 of 2014  
Decided on: May 21, 2015**

**Ajay Kapoor**

**.... Petitioner**

**Versus**

**Smt. Kamla Kapoor and others**

**..... Respondents**

**CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI**

Present: Mr. Nitin Thatai, Advocate  
for the petitioner.

Mr. Varun Baanth, Advocate  
for the respondents.

**M.M.S. BEDI, J (ORAL)**

The miscellaneous application for preponing the date of hearing, being not opposed from other side, is allowed. Date of hearing is preponed from 27.08.2015 to today i.e. 21.05.2015.

This revision petition is filed by the plaintiff-petitioner challenging the order dated 29.08.2014 allowing the application under Order 6 Rule 17 CPC filed by the defendant-respondents No. 1 to 3.

Brief facts relevant for the decision of the revision petition are that the plaintiff-petitioner has filed the suit for symbolic/joint possession by specific performance of an agreement of sale dated 29.12.2004 in respect of ½ share in a shop measuring 32.82 square yards mentioned in heading of the plaint. During pendency of the suit, defendant Nos.4 to 6 sold their share to the plaintiff-petitioner. In view of said subsequent event, the remaining three defendants sought the amendment of the written statement for incorporating a plea that defendants No.4 to 6 namely Meena Kapoor, Neha

Kapoor and Arjun Kapoor had sold their share in favour of the plaintiff-petitioner.

Taking into consideration the status of the trial, the said application was allowed by the trial Court.

Learned counsel for the petitioner has submitted that the plea which is sought to be incorporated by amendment is that defendants No.4 to 6 have sold their share beyond their ownership to the plaintiff-petitioner and that in case the written statement is permitted to be amended, it will not only change the nature of the suit of specific performance filed by the plaintiff-petitioner but would rather make it a case of inter se dispute between the defendants which is not required to be adjudicated by the trial Court. He has also submitted that the amendment has been allowed after the commencement of the suit in contravention to the principles of Order 6 Rule 17 CPC.

I have heard learned counsel for the petitioner as well as respondents and carefully gone through the facts and circumstances of the case. The plaintiff-petitioner on the basis of agreement of sale dated 29.12.2004, in respect of half share of the shop in dispute, has filed suit against six defendants. The three defendants i.e. defendants No.4 to 6 opted to concede to the claim of the plaintiff-petitioner and executed the sale deed in favour of the plaintiff. The said subsequent event required to be incorporated by way of amended pleadings, which seems to have been done by respondents-defendants No.1 to 3. The short question which is required to be determined is whether the defendants-respondents No.1 to 3 could be permitted to plead that the share sold by defendants No.4 to 6 is beyond their ownership. The nature of the suit of the plaintiff-petitioner is that he

has claimed half share in the property subject matter of the agreement of sale. Whether during pendency of suit defendants-respondents No.4 to 6 have transferred their share which would fall within their limits of ownership would certainly be an important point to be determined inter se the parties which seems to have been done by permitting the amendment which will certainly prevent the parties to enter into multiplicity of litigation. The amendment is permissible in view of the fact that it will enable the Court to determine the real questions in controversy between the parties for all times to come.

No ground is made out for interference in the impugned order.

Dismissed.

**(M.M.S. BEDI)  
JUDGE**

**May 21, 2015**  
*ps-I*