

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Civil Revision No.7878 of 2015

Date of decision: 26.11.2015

Manohar Lal and another

.....Petitioners

versus

Ravi Bir Singh and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Rajinder Sharma, Advocate for the petitioners
Mr.Puneet Jindal, Senior Advocate with
Mr.Siddhant Kant, Advocate for respondent No.1-Caveator

- 1. Whether Reporters of Local Newspapers 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?*

Kuldip Singh, J. (Oral)

Impugned in the present revision is the order dated 19.8.2015, passed by the learned Additional District Judge, Amritsar, vide which application of the petitioners -defendant No.1 and 5 for amendment of the written statement was dismissed.

Suffice to say that in a suit for permanent injunction, a decree has been passed in favour of the plaintiff and against the present petitioners-defendants restraining them from interfering in the private passage shown as red in the attached site plan and not to demolish the wall of the said passage. During appeal pending before appellate Court, by way of amendment, the plaintiff wants to make following amendment:-

“The said Aryaver Buildcomm Ltd., who has been impleaded as plaintiff in the present suit, has constructed a Hotel Building in portion of the property and a hotel in the name of Galleria Amritsar has been started in the said property. Aryaveer Buildcom Ltd. had opened an entrance door for the said hotel on a road which is situated on the link road. Earlier said road was 24 feet wide, but now the said road has been widened to the extent of more than 50 feet and the approach to the hotel has been made from the said road and now there is no entrance door existing in the Hotel building towards passage in dispute. Only the doors belonging to the defendants which were existing much prior to the filing of present suit are there and those doors are being used by the defendants for ingress and outgress to their respective portions of the property in their possession. It is further pointed out that in addition to the said approach road detailed above towards Link Road there is an other approach to this hotel building from the Court Road also.”

It is claimed that the said facts are subsequent developments and were not in the knowledge of the plaintiff during the pendency of the trial. The argument did not find favour with the lower Court.

I have heard learned counsel for the parties and have also carefully gone through the file.

I am of the view that the lower appellate Court is justified in dismissing the application for amendment which will have the effect of re-opening of the case allowing the leading of fresh evidence and fresh findings. The petitioner claims that the the plaintiff has constructed a hotel building in the portion of the property. The date of such construction is not given. Hotel is never construction overnight. Therefore, the date of completion of the construction was necessary to know whether it is subsequent event or not. Similarly, it is stated that Aryaveer Buildcom Limited has opened an entrance door for the said hotel on a road. The date of opening of the said door is also not mentioned. Then it is mentioned that 24' wide road on the link road has widened to the extent of more than 50'. The date of such widening has also not been given. Therefore, it cannot be said that these are subsequent events. The construction of the hotel and construction of the road does not take place overnight. Therefore, when this event has started, it was the proper time to bring the same to the notice of the Court. The other fact regarding use of road by the defendants for ingress and outgress and existence of another approach to the hotel building from the Court road side, is not subsequent event as this was in existence and within the knowledge of the defendant during the trial before the lower Court.

It being so, I do not find any merit in the present revision.
The same is dismissed.

26.11.2015*gk***(Kuldip Singh)
Judge**