

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Civil Revision No. 861 of 2014 (O&M)

DATE OF DECISION : December 17, 2015

Ashok Kumar

..... PETITIONER(S)

VERSUS

Ashwani Kumar @ Sonu

.... RESPONDENT(S)

CORAM : HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Achin Gupta, Advocate, for the petitioner.
Mr. Rajan Bansal, Advocate, for the respondent.

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1. Whether Reporters of local newspapers may be allowed to see the judgment? YES/NO

2. To be referred to the Reporter or not? YES/NO

3. Whether the judgment should be reported in the digest? YES/NO

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ARUN PALLI, J. (Oral)

Vide order being assailed, dated 16.12.2013, rendered by Additional Civil Judge (Senior Division), Bathinda, application under Order 6 Rule 17 of the Code of Civil Procedure, moved by the plaintiff-respondent, seeking amendment in the plaint, had since been granted.

Concededly, in a suit filed by the plaintiff-respondent,

he prayed for a decree for specific performance of the agreement to sell dated 03.02.2004. And vide a proposed amendment, all what is sought to be pleaded is that although plaintiff did maintain in his suit that in the last week of April, 2004, he had approached the defendant to perform his part of the contract, for he was fully equipped with the balance sale consideration and the necessary funds to defray the requisite expenses, somehow, the fact that he attended the office of Sub Registrar, Bathinda, on 31.05.2004, could not be pleaded. Likewise, as the plaintiff was dispossessed during the pendency of the suit, therefore, he was no longer praying for a decree for injunction but for possession.

Ex-facie, the amendments prayed for are extremely crucial and go to the root of the matter. Plaintiff had prayed for an amendment and, thus, he does not gain by delaying the proceedings, in any manner. On the contrary, if he is not allowed to plead that he had attended the office of Sub Registrar, Bathinda, on 31.05.2004, that might, eventually, prove to be fatal to his claim, though he shall have to substantiate his claim by adducing necessary evidence. Similarly, relief of possession is a natural consequence of a decree for specific performance of the contract and once the plaintiff is found entitled to the said decree, the same shall normally follow. In any case, if the plaintiff is not allowed to claim possession as well, there might be a situation where even though he is found entitled to the decree for specific performance, but yet cannot be granted possession, in the

absence of a formal prayer in this regard.

That being so, no interference is warranted in exercise of revisional jurisdiction under Article 227 of the Constitution of India. Petition being devoid of merit is, accordingly, dismissed.

DECEMBER 17, 2015
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(ARUN PALLI)
JUDGE