

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

**CR No.88 of 2014 (O&M)
Date of decision:18.11.2015**

Satwant Singh

... Petitioner

Vs.

Kirpal Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. Deepak Aggarwal, Advocate
for the petitioner.

Mr. Sherry K. Singla, Advocate
for respondents No.1 and 2.

AMIT RAWAL J. (Oral)

The petitioner-plaintiff is in civil revision petition against the impugned order dated 23.12.2013, whereby, application seeking amendment of the plaint at the final stage of the suit, has been dismissed.

Mr. Deepak Aggarwal, learned counsel appearing on behalf of the petitioner-plaintiff submits that as per the averments made in the application seeking amendment of the plaint in a suit for permanent injunction acquired the knowledge of two sale deeds dated 16.08.2001 and 24.01.1996 alleged to have been executed by the defendants to third party. It is the aforementioned sale deeds

which were challenged in a suit for declaration by the defendants instead of sale deeds dated 26.08.2002 and 20.12.2010. He further submits that aforementioned amendment will not alter the nature of the suit, in case, the amendment will be allowed. Thus, prays for setting aside of the impugned order.

Mr. Sherry K. Singla, learned counsel appearing on behalf of respondents No.1 and 2 submits that in the aforementioned sale deeds, application is wanting material/particularly expression, “despite exercise of due diligence” which has been incorporated after amendment caused in the year 2002. Even application does not spell out filing of the suit for permanent injunction whether it is prior or subsequent to, therefore, in a very vague and evasive manner, an application for amendment had been filed, thus, cannot be permitted particularly when the suit has reached at the stage of final arguments.

I have heard learned counsel for the parties and appraised the paper book.

The provisions of Order 6 Rule 17 Code of Civil Procedure (for short 'CPC'), has been amended by the legislature by causing the amendment in CPC in the year 2002 and the expression “despite exercise of due diligence” is required to be pleaded, much less, prima facie pleaded for seeking amendment of the pleadings. The application is lacking aforementioned expression. Even otherwise, the acquisition of knowledge with regard to sale

deeds dated 16.08.2001 and 24.01.1996 sought to be challenged at the final stage of the suit is wanting as no date of filing or decision of the suit for permanent injunction, has been mentioned.

I am of the view that such an application for amendment amendment cannot be permitted to be allowed and rightly so has been rejected by the trial Court and same cannot be said to be rejected without jurisdiction.

Accordingly, the revision petition is dismissed.

(AMIT RAWAL)
JUDGE

November 18, 2015
savita