

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

CR No.1778 of 2016 (O&M)

Date of decision:26.4.2016

Mamraj (deceased) through LRs Anita and othersPetitioners

VERSUS

**Hari Ram (deceased) through LRs Diwan Chand and others
.....Respondents**

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Vijay Kumar Sheoran, Advocate for the petitioners.

REKHA MITTAL, J.(Oral)

The present petition has been directed against order dated 20.01.2016 passed by the Additional Civil Judge, Senior Division, Loharu, dismissing application of the petitioners filed under Order 6 Rule 17 read with Section 151 of the Code of Civil Procedure, 1908 (in short 'CPC') for amendment of the plaint.

The petitioners/plaintiffs filed a suit claiming that they have become owners of the suit land on the basis of mortgage created in their favour more than 30 years prior to filing of the suit in question and as a consequence they are entitled to be recorded as owners in the revenue records. The instant application was filed to amend the plaint in order to seek specific performance of an agreement to sell dated 01.10.1979 for a sale consideration of Rs.1,10,000/-.

As cause of action to file a suit on the basis of agreement dated 01.10.1979 is an independent cause of action and has nothing to do with earlier suit filed on the basis of alleged mortgage, it is difficult to accept plea of the petitioners that the proposed amendment is necessary for complete and effective adjudication of the matter in

controversy much less for just decision of the case. I do not find any error much less illegality in the impugned order warranting intervention.

For the reasons aforestated, finding no merit, the petition is dismissed. However, the petitioners shall be at liberty to take recourse to appropriate proceedings in accordance with law to claim their right on the basis of agreement dated 01.10.1979.

APRIL 26, 2016
'D. Gulati'

(REKHA MITTAL)
JUDGE