

In the High Court of Punjab and Haryana at Chandigarh

**Civil Revision No. 2240 of 2016
Date of Decision: 19.5.2016**

Mamta

--- Petitioner

versus

Bhagwati

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Deepender Singh, Advocate
for the petitioner**

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

Rekha Mittal, J.

The present petition has been directed against order dated 17.11.2015 (Annexure P-1) passed by the Civil Judge (Junior Division), Faridabad, allowing application of the plaintiff/respondent filed under Order 6 Rule 17 read with Section 151 of the Code of Civil Procedure (in short “CPC”) for amendment of the plaint.

Counsel for the petitioner has submitted that initially the respondent filed a suit for permanent injunction restraining the petitioner/defendant from alienating the suit property but later filed an application for amendment of the plaint to convert the suit for injunction to a suit for specific performance of agreement to sell. It is argued that on one

hand, the court has held that the suit for injunction has been rendered infructuous but, on the contrary, the court has allowed amendment of the plaint and proceeded with the suit.

I have heard counsel for the petitioner, perused the paper book particularly the order impugned but find that petition sans merit and deserves to be dismissed.

The application for amendment of the plaint has been allowed by the trial court by relying upon judgment of this Court **Kuljit Singh vs. Sukhdev Singh and others 2009(3) RCR(Civil) 751** wherein it has been held that a suit for permanent injunction can be converted into a suit for specific performance to avoid multiplicity of litigation because in case of refusal, the petitioner can file a suit for specific performance separately. Counsel has not disputed the ratio laid down in **Kuljit Singh's case (supra)**.

Concededly, the suit for injunction⁸ against alienation was filed by the respondent/plaintiff before arrival of the target date fixed for execution of the sale deed. After expiry of the said date and on alleged failure of the petitioner to execute the sale deed on the basis of agreement to sell, the respondent filed an application for amendment of the plaint. The mere fact that the trial court has observed that after expiry of period fixed for execution of the sale deed, suit for permanent injunction has been rendered infructuous does not mean that the court was debarred from allowing amendment as prayed for. As a matter of fact, the court wanted to convey that after expiry of the target date, the plaintiff may not be competent to maintain a suit for injunction as his only remedy is to file a

suit for specific performance of the agreement.

In view of the above, I do not find any error much less illegality in the impugned order warranting intervention.

For the foregoing reasons, the petition fails and is accordingly dismissed.

(Rekha Mittal)
Judge

19.5.2016

PARAMJIT