

CR No.2426 of 2015

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.2426 of 2015

Date of decision:13.07.2016

Jaswinder Singh

... Petitioner

Vs.

Pirthi Chand

... Respondent

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. Ravish Bansal, Advocate, for the respondent.

AMIT RAWAL J. (Oral)

The petitioner-plaintiff is aggrieved of the dismissal of the application, whereby, two fold relief with regard to amendment of the plaint and impleadment of the sons of the defendant as defendants No.2 and 3, has been declined.

Mr. Deepak Aggarwal, learned counsel appearing on behalf of the petitioner-plaintiff submits that suit for possession was instituted against the defendant. In the written statement, it was disclosed that defendant along with his sons is also residing. It is in these circumstances, the amendment in the plaint, as well as, the impleadment was sought but the same has been declined on the ground that trial had commenced and that it was in the knowledge of the petitioner, who failed to exercise due diligence.

Mr. Ravish Bansal, learned counsel appearing on behalf of the

respondent submits that rightly so the application has been dismissed as the trial has commenced. The application has not fallen within the amended provisions of Order 6 Rule 17 of the Code of Civil Procedure and rightly so, has been declined and thus, urges this Court for affirming the findings rendered by the Court below.

I have heard learned counsel for the parties and appraised the paper book and of the view that once the factum of possession of the property in dispute of the defendant along with sons has been disclosed in the written statement, the plaintiff in order to avoid the technical objection at the final stage, moved an application, aforementioned with promptitude. I am of the view that Court should not have dismissed the application on technical ground as it is falling within the expression “despite exercise of due diligence”. The law of amendment in instant case would to help the Court to properly adjudicate the lis instead of deciding it on technicalities.

In view of the aforementioned, I am of the view that impugned order is not sustainable in the eyes of law and the same is hereby set aside and the application aforementioned is allowed. The petitioner-plaintiff is permitted to amend the plaint and as well as, array the proposed defendants No.2 and 3 subject to payment of costs of ₹5000/- which shall be condition precedent.

Accordingly, the revision petition stands allowed.

(AMIT RAWAL)
JUDGE

July 13, 2016
savita