

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

-:-

**C.R No. 372 of 2014**

**Date of Decision: January 18, 2016.**

**Shingara Singh**

**..... Petitioner**

**Versus**

**Karnail Singh**

**..... Respondent**

**CORAM: HON'BLE MR. JUSTICE K.KANNAN**

**Present:-** Mr. O.P.Goyal, Sr. Advocate, with  
Mr. Mukesh Verma, Advocate, for the petitioner.

Ms. Nidhi Ayer, Advocate, for the respondent.

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1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ?No.

**K.KANNAN J**

Revision petition is brought at the instance of the defendant to bring an amendment to the written statement referring to the fact of complaint given by the plaintiff subsequent to the institution of the suit along with several documents. That documents include reference to an agreement to sell, complaint given by the plaintiff that the defendant has trespassed to the suit property. Since the suit is for permanent injunction restraining the defendants from interfering on a plea that the plaintiff himself is in possession, the defendant attempted to show that in the complaint given to the police the complainants admitted the defendants to be in possession.

The objection by the plaintiff is that the facts now pleaded and

sought to be brought as amendment to the written statement are already in the knowledge of the party even at the time of filing of the written statement and cannot be permitted to be brought subsequently in the light of the amended provisions of Order 6 Rule 17 C.P.C. Learned counsel for the respondent would point out to the fact that documents referred to by the defendant include jamabandies for the year 1981-82, which were far before the suit, a matter that ought to have been known to the defendant.

There ought to be difference between amendment of pleadings by the plaintiffs and the amendments by defendants. The Courts shall be liberal in construing the application for amendment of the written statement, for, the defendant enjoys certain privileges which the plaintiff does not. The key element that will be considered by the trial Court in the application, which is moved for amendment would be whether the defendant was withdrawing any admission, which had already been made. The Court will examine whether there are any self-destructive pleas brought by amendment that negates the contentions already made in the original written statement. A delay which can trigger a suspicion of new documents as having been fabricated could also be a justifiable ground for denying an amendment. The examples that I have outlined or similarly illustrated are not meant to be exhaustive.

The documents that are referred to and the additional pleadings by way of an amendment are as regards proceedings between parties to which the plaintiff himself has been a privy.

The impugned order is set aside and the amendment application

is allowed. Needless to state that the plaintiff will be granted the benefit of filling of an application to the amended pleadings brought by the defendant and will also have the benefit of offering evidence on the averments contended in the amended written statement and their replications if evidence has already been completed. If evidence-in-chief is provided by an affidavit, the plaintiff will also have the benefit of giving an additional affidavit to the extent that is required to traverse the amended pleadings now brought through by the defendant.

The revision petition is allowed on the above terms.

**January 18, 2016**  
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**(K.KANNAN)**  
**JUDGE**