

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

Civil Revision No.3968 of 2013

Date of decision : 05.04.2016

Raunki Ram and another

.....Petitioners

Versus

Ujagar Ram (since deceased) through LRs

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

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

Present: Mr. Balram Singh, Advocate for petitioner.

DARSHAN SINGH, J.

The present revision petition has been preferred against the order dated 10.05.2013 passed by the learned Additional District Judge, Jalandhar, vide which the application moved by the petitioners before the learned first Appellate Court for amendment of written statement has been dismissed.

2. Learned counsel for the petitioners contended that the petitioners moved the application for amendment of the written statement to take the plea that they are owner in possession of the suit property on

the basis of allotment letter dated 15.10.1964, which is essential for the purpose of determining the real controversy between the parties. Thus, he contended that the learned first Appellate Court has wrongly dismissed the application.

3. I have duly considered the aforesaid contentions.

4. The application for amendment of the written statement was moved by the petitioners at the appellate stage. The suit filed by the plaintiff-respondent was decreed for possession and permanent injunction. In order to defend the suit, the petitioners have taken the plea of adverse possession but now by way of the amendment, they want to raise the plea that they are owner in possession of the suit property on the basis of allotment letter dated 15.10.1964. Thus, with the aforesaid amendment, the petitioner wants to change their stand which is contradictory to their original plea in the written statement and the proposed amendment will change the entire nature of the suit and may require *de novo* trial. No satisfactory explanation has been given as to why the application for amendment of written statement was not moved during the trial. There is also no satisfactory explanation as to why this plea was not taken in the original written statement when the allotment letter is stated to be dated 15.10.1964. Thus, I do not find any illegality in the impugned order.

5. Resultantly, the present revision petition is without any merits and the same is hereby dismissed.

05.04.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**