

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 4290 of 2014

Date of Decision: 18.01.2016

Inder Singh alias Maghi Singh and Another

... Petitioner(s)

Versus

Naib Singh and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

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. Binderjit Singh, Advocate
for the petitioners.

Mr. Munish Bansal, Advocate
for respondents No.1 & 2.

Shekher Dhawan, J.

Present petition is challenge to the order dated 29.4.2014 passed by learned Additional Civil Judge (Senior Division), Phul, whereby application, filed by the petitioners/defendants, for permission to amend written statement was dismissed.

Relevant facts for the purpose of decision of present petition that suit for possession of suit land was filed before the Court below. Application under Order 6 Rule 17 CPC was filed by the defendants so as to take the plea of *res judicata* because earlier, plaintiffs had filed Civil Suit No. 255 dated 3.5.1996 for taking possession of land measuring 1 kanal & 18 marlas. But that suit was dismissed by the Court below. Thereafter, plaintiffs again filed the

present suit for getting possession of the same land on the basis of wrong facts. The petitioners/defendants wanted to take plea on the principle of *res judicata* and the said application was dismissed by the Court below.

Having considered the submissions made by learned counsel for the parties, this Court is of the considered view that the facts are not disputed that earlier Civil Suit No. 255 dated 3.5.1996 was also filed with respect to the suit land only and the parties were almost the same and the relief claimed was also same as both the suits are for seeking relief of possession. Present petitioners were well within their right to take plea of *res judicata*, though they should have taken this plea at the earliest. However, law on this point is settled that law of procedure is meant for advancement of justice and the party should have not been denied such a permission, if allowing of amendment may give finality to the litigation. In the given case, amendment in the written statement is most essential and the same should have been allowed by way of amendment of pleadings. But unfortunately that has not been done by the Court below.

As such, present petition is accepted and impugned order dated 29.4.2014 is set aside and application for amendment of the written statement, filed by the petitioners, stands allowed.

(Shekher Dhawan)
Judge

January 18, 2016

"DK"