

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

C.R. No.4811 of 2016

Date of Decision.29.07.2016

Sukhchian Singh and another

.....Petitioners

Vs.

Jagvir Singh and another

.....Respondents

Present: Mr. Karamjit Verma, Advocate
for the petitioners.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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

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AMIT RAWAL J. (ORAL)

The petitioners-defendants are aggrieved of the impugned order whereby the application at the instance of the respondents-plaintiffs seeking amendment of the plaint by incorporating the relief of mandatory injunction, owing to the fact that during the pendency of the suit for permanent injunction, the petitioners-defendants alleged to have raised the construction, has been allowed.

Mr. Karamjit Verma, learned counsel for the petitioners submits that the amendment cannot be allowed as the trial had already been begun and the matter was listed for plaintiffs' evidence and the construction was already there and this fact was in the knowledge of the plaintiffs. The objection, in this regard, was also taken in the written statement and therefore, the application is nothing but an act of delaying tactics in order to keep pressure on the defendants and thus, urges this Court for setting aside

of the order under challenge.

I have heard learned counsel for the petitioners, appraised the paper book and of the view that it is categoric pleading in the application that during the pendency of the suit, the defendants have opened windows, ventilators, doors and increased the width of wall towards the private passage on eastern side as per the site plan and in this background of the matter, relief of mandatory injunction by way of amendment was sought to be incorporated. Since the case is at the stage of plaintiffs' evidence, the subsequent changed circumstances do not amount to alter the nature of the suit, much less, withdrawing any admission. The defendants shall be at liberty to prove their case as per their evidence as well as in the cross-examination.

In view of the foregoing reasons, I do not find any illegality and perversity in the order passed by the Court below, much less, the order cannot be said to be passed without jurisdiction. No ground for interference is made out. The revision petition is dismissed.

(AMIT RAWAL)
JUDGE

July 29, 2016
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No