

Civil Revision No.5187 of 2016

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R.No.5187 of 2016

Date of Decision: August 12, 2016

Vinod Kumar

...Petitioner

Versus

Dharam Pal & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

Present: Mr.Hemant Bassi, Advocate,
for the petitioner.

AMIT RAWAL, J. (Oral)

Petitioner-defendant is aggrieved of the order dated 26.7.2016 (Annexure P-4), whereby the application of respondent No.1-plaintiff seeking amendment of the plaint by incorporating the relief of possession in a suit filed seeking declaration that he is owner in possession of the disputed land, has been allowed.

Mr.Hemant Bassi, learned counsel for the petitioner-defendant submits that there is a categoric averment in paragraph 2 of the plaint that the plaintiff was not in possession of the property, whereas

in paragraph 4 thereof, there is contradictory averment. In fact, the

plaintiff was never in possession of the property and, therefore, the plea with regard to the alleged dispossession is neither here nor there but an attempt to cover up the lacunae, which is not permissible in law. The entire revenue record is contrary to the averments in the application, rather it reveals the possession of the petitioner-defendant prior to the institution of the suit. The allegations of alleged dispossession is an imaginary or concocted story. All these aspects have been ignored by the trial Court below while allowing the application.

I have heard the learned counsel for the petitioner-defendant, appraised the paper book and of the view that the arguments, as noticed above, can be looked into by the trial Court at the time of arguments in case any evidence in this regard is led. The suit is at the stage of plaintiff's evidence. The amendment sought to be incorporated, in my view, does not amount to withdrawing the admission or altering the nature of the case as there are averments, which have to be accepted subject to rebuttal regarding the alleged dispossession.

In my view, the amendment sought is innocuous one and does not affect the valuable right of the defendants. They shall be at liberty to rebut the same by filing written statement or leading evidence.

For the foregoing reasons, I do not intend to differ with the findings rendering the trial Court while allowing the application.

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Revision petition stands dismissed.

**August 12, 2016
ramesh**

**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No