

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

**CR No.5240 of 2015(O&M)
Date of decision :01.06.2016**

Balbir Singh

..... Petitioner

Versus

Satnam Singh and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr.S.S.Dinarpur, Advocate
for the petitioner.

Mr. Akshay Jindal, Advocate
for the respondents.

- 1. Whether Reporters of 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.**

DARSHAN SINGH, J. (Oral)

1. The present revision petition has been preferred against the order dated 22.07.2015 passed by the learned Civil Judge (Jr. Division) Kurukshetra, whereby the application under Order 6 Rule 17 of the Code of Civil Procedure 1908 (for short CPC) moved by the petitioner for amendment of the plaint has been dismissed.

2. Learned counsel for the petitioner contended that

during the pendency of the suit respondents forcibly took the possession of the suit property. The petitioner-plaintiff only wants to amend the plaint to introduce the relief of possession along with relief sought in the suit for specific performance of the agreement to sell dated 10.08.2009. He contended that the proposed amendment is only due to the subsequent event and will not change the nature of the case.

3. On the other hand, learned counsel for the respondents contended that there was no need for the amendment sought by the plaintiff-petitioner. The Court could have considered the relief of possession on the basis of the pleadings even in a suit for specific performance. Thus, he contended that the application has been rightly dismissed by the learned trial Court.

4. I have duly considered the aforesaid contentions.

5. The plaintiff-petitioner has originally filed the suit for symbolic possession by way of specific performance of agreement to sell dated 10.08.2009 with a consequential relief of permanent injunction. It is pleaded in the application that during the pendency of the suit, he was forcibly dispossessed by the defendants on 04.01.2015. He wants to amend the plaint by seeking relief of possession and making some consequential amendments in para no.6-A of the plaint. As per averments in the application, the plaintiff-petitioner was dispossessed on 04.01.2015 and this application has been

moved on 21.01.2015 i.e. immediately thereafter. Moreover, the proposed amendment is only the addition of the relief of possession due to the subsequent event. In these peculiar circumstances, the belated stage of the suit is no ground to decline the request for the amendment of the plaint. The proposed amendment will not change the nature of the suit. Learned counsel for the petitioner has stated at bar that if the amendment is allowed, the plaintiff-petitioner will not lead any fresh evidence. So, there is no intention to prolong the disposal of the suit by the petitioner by seeking the amendment. The said amendment is also essential to determine the real question in controversy between the parties.

6. Thus, keeping in view my aforesaid discussion, the present revision petition is hereby allowed and the impugned order dated 22.07.2015 passed by the learned trial Court is hereby set aside. The application filed by the petitioner-plaintiff for amendment of the plaint stands allowed subject to Rs. 5000/- as costs.

01.06.2016

S.khan

(DARSHAN SINGH)
JUDGE