

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

CM No. 17578-CII of 2016 in/&

C.R. No. 5722 of 2016 (O&M)

Date of decision : 05.09.2016

Harbhajan (deceased) thr. LR's

....Petitioner

V/s

Raghubir @ Raghubir (deceased) thr. LR's

....Respondent

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Rakesh Dhiman, Advocate for the petitioner.

RAJAN GUPTA J.

C.R. No. 5722 of 2016

Present revision petition is directed against the order dated 18.07.2016 passed by trial court rejecting the prayer of plaintiff for amendment of plaint.

Learned counsel for the petitioners has assailed the order. He submits that amendment was necessary for just decision of the case. Trial court has completely erred in rejecting the prayer made by the petitioner.

I have heard learned counsel for the petitioner.

It appears that plaintiff instituted a suit for declaration seeking annulment of the judgment & decree dated 13.06.1985 passed by Sub Judge Ist Class, Gurgaon. He has also sought injunction to restrain the defendants from alienating, transferring or creating any type of lien over the suit land. On notice, defendants appeared and filed written statement. Thereafter, trial proceeded. An application was moved at this stage for amendment of paras no. 12 (c) & 7 (f) of the plaint on the ground that inspite of due diligence

certain pleadings could not be incorporated in the plaint. Amendments were necessary for just and proper adjudication of the case. Prayer has been rejected by the trial court on the ground that amendments now sought by the plaintiff in their plaint were not at all necessary for proper adjudication as the same have no bearing on the merits of the case. In view of proviso to Order 6 Rule 17 CPC such an amendment could not be allowed at a belated stage. Trial has already commenced. There is nothing on record to show that despite due diligence, petitioner could not have incorporated the averment now sought to be added. I find no legal infirmity with the order. This revision petition is without any merit and is hereby dismissed.

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As this main petition has been dismissed on merits, no order needs to be passed in this application.

September 05, 2016

Ajay

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No