

214.

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

Civil Revision No.5973 of 2013

Date of decision:07.04.2016

Yogesh Kaushik

... Petitioner

versus

Sushila Dalal

.... Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Atul Gaur, Advocate,
for Mr. Sumeet Goel, Advocate,
for the petitioner.

Mr. Vinod S. Bhardwaj, Advocate,
for the respondent.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ? No.

K.Kannan, J. (Oral)

1. A suit for declaration filed in 2010 was sought to be amended for relief of specific performance of an agreement dated 20.06.2009 that set a target for completion as 12.10.2010. The application for amendment was filed before the commencement of trial in June, 2013 seeking for the relief of a specific performance. The objection taken was that the plaintiff was literally changing the whole nature of suit and it should not be permitted. The court rejected the objection and allowed the application. The petition is by

the defendant aggrieved against the order allowing amendment.

2. The change of nature of suit is not the only relevant issue. The most predominant consideration shall be whether the defendant could be put to any prejudice and whether the suit in the amended form will prevent the defendant from raising any point which he would lose if a fresh suit were to be filed. If the relief of specific performance was competent as the relief sought was within a period of 3 years if a separate suit were to be filed, then to prevent multiplicity of actions, it will be perfectly competent for a court to allow for such an amendment. If there was no bar of limitation to file a fresh suit for specific performance, the same could be allowed even through an amendment in the plaint instead of driving a party to file a fresh suit. The amendment ordered was perfectly justified. There is no cause for intervention. Revision petition is dismissed.

(K.KANNAN)
JUDGE

07.04.2016
sanjeev