

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 6092 of 2015 (O&M)

Date of Decision : 14.01.2016.

Hira Lal

....Petitioner

Vs.

Municipal Council, Phagwara and others

....Respondents

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH
DHALIWAL

Present: Mr. Jatinder Nagpal, Advocate,
for the petitioner.

Paramjeet Singh Dhaliwal, J.(Oral)

The instant petition has been filed under Article 227 of the Constitution of India for setting aside order dated 04.08.2015 passed by learned Civil Judge (Junior Division), Phagwara whereby the application moved by the petitioner for amendment of plaint to introduce para 5(a) has been dismissed.

I have heard the learned counsel for the petitioner and perused the record.

Para 5(a) sought to be introduced reads as under:-

“That the plaintiff has been in possession of the land in suit prior to 01/01/1996 on which he has raised his house since more than 20-22 years. The Municipal Corporation, Phagwara has also levied a property tax on the said house according to the new policy of

Government of Punjab. The said tax has been levied after the filing of the suit. Not only this the Government of Punjab vide its letter dated 04/09/2002 issued to all the Deputy Commissioners of Punjab vide which the attention of the same was drawn to the Government of Punjab letter No.25/60/98-3/5585 dated 23/08/2001. The said letter pertains to regularization of unauthorized possession of persons who could not apply for the same within the time limit fixed. However the plaintiff/applicant has already applied for the same in this regard. Vide this letter above said the dead line was again fixed for 31/10/2002. But it was clear that to avail the benefit of the Government Policy the person in possession must have be occupied the same prior to 01/01/1996. In addition to this the policy was clear that there should be a water supply, electricity meter connection as well as building constructed on the area. On the application of the plaintiff the then Collector, Kapurthala fixed the market rate at Rs.1350/- per marla vide his order dated 04/05/1987. The plaintiff has been in possession of the property dispute since 1977 and the same has been regularized as per the Government Policy, on the application moved by the plaintiff as well as other persons on 31/07/1986 same is Annexure P-A. The plaintiff did move other application along with other person to the then Deputy Commissioner, Kapurthala on 22/02/1991 which is Annexure-PB.”

Perusal of the aforesaid para shows that it only refers to the letter pertaining to regularization of unauthorized possession of the

persons who could not apply for the same within time limit fixed. It has no relevancy that the Collector has fixed some market rate of the property. The present suit is purely for permanent injunction restraining the defendants from interfering in peaceful possession of the plaintiff-petitioner and they are forcibly causing damage to the property. Para no. 5(a) has no relevancy.

In view of the above, I do not find any illegality or perversity in the impugned order.

Dismissed.

January 14, 2016.
shubham

(PARAMJEET SINGH DHALIWAL)
JUDGE