

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

Civil Revision No.6082 of 2016

Date of Decision: September 16, 2016

Laxman & others

...Petitioners

Versus

Rajesh Kumar & another

...Respondents

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

Present: Mr.Sandeep Parkash Chahar, Advocate,
for the petitioners.

AMIT RAWAL, J. (Oral)

Petitioner-defendants are aggrieved of allowing the application filed under Order 6 Rule 17 CPC seeking amendment of the suit for converting the suit from permanent injunction to mandatory injunction.

Mr.Sandeep Parkash Chahar, learned counsel for the petitioner-defendants submits that allowing of the application tantamounts to changing the nature and character of the suit, which is not permissible. He submits that the alleged encroachment was prior to the filing of the suit and, therefore, the application was liable to be dismissed.

I have heard the learned counsel for the petitioner-defendants, appraised the paper book and of the view that there is a categoric pleading in the application that during the pendency of the suit, the defendants have made alleged encroachment and as such, earlier the plaintiffs had sought permanent injunction. Since the encroachment is yet to be determined, in the absence of the mandatory injunction, the suit could not succeed. In this

background of the matter, the application was filed.

I am of the view that the suit is at the initial stage and the amendment sought is necessary and essential for the adjudication of the same. The order is perfect and legal. The same cannot be said to be without jurisdiction. No interference is called for.

Revision petition stands dismissed.

However, it is expected that the trial Court shall decide the suit as expeditiously as possible.

September 16, 2016
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No