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

CR-6376-2014

Date of decision : 09.02.2016

Surinder Pal Sharma

...Petitioner

Versus

Kuldeep Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Saurabh Kaushik, Advocate
for the petitioner.

Mr. Munish Gupta, Advocate
for the respondents.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

AMIT RAWAL, J. (ORAL)

The petitioner-plaintiff is aggrieved of the order dated 19.08.2014, whereby the application filed under Order 6 Rule 17 of the Code of Civil Procedure (hereinafter called 'CPC'), seeking amendment of the plaint, has been dismissed.

Mr. Saurabh Kaushik, learned counsel appearing on behalf of the petitioner, submits that the amendment sought was most innocuous and would not alter and change the nature of the case. The factum of incorporating the amendment pertains to a subsequent event, which cannot be denied, thus, the trial Court has

committed illegality and perversity in declining the application.

Mr. Munish Gupta, learned counsel appearing on behalf of respondents submits that the amendment sought would alter the nature of the suit, much less, will not serve purpose as it has failed to cause any change in prayer clause. Even otherwise, as per the amended provisions of the Act, amendment cannot be allowed as the suit is at the stage of petitioner-plaintiff's evidence.

I have heard the learned counsel for the parties and appraised the paper book.

It would be apt to reproduce the proposed amendment, which reads thus:-

"On the night of 05th and 06th October, 2013, the defendants erected a new wall in the corridor on the ground floor between the points Z-1 to Z-2 and raised this wall to roof level/Zaal (grill in flooring of 1st Floor). The defendants could do so as they have purchased the booth of Hari Om son of Bhagwan Dass situated on the ground floor at the back of shop of defendants recently and the shop situated across the corridor was purchased by them long ago."

Since, the amendment, in my view, is essential and necessary for adjudication of the *lis*, even though, there is no prayer for seeking amendment in the prayer clause for it is elucidative in nature and enable the trial Court in adjudication of the *lis*.

Keeping in view the aforementioned facts, the impugned order dated 19.08.2014 declining the application is hereby set aside

and the application seeking amendment of the plaint is allowed.

With the aforesaid observations, the revision petition stands allowed.

09.02.2016

yogesh

**(AMIT RAWAL)
JUDGE**