

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.6606 of 2014
Date of Decision: February 01, 2016

Julfi Ram

...Petitioner

Versus

Raj Kumar

...Respondent

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

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?

Present: Mr.Amardeep Singh Gill, Advocate,
for the petitioner.

Mr.J.K.Goel, Advocate &
Mr.Rishab Gupta, Advocate,
for the respondent.

AMIT RAWAL, J. (Oral)

The petitioner-defendant is aggrieved of the order dated 22.8.2014, whereby the application filed on behalf of the respondent-plaintiff for amendment of the plaint by converting the suit for mandatory injunction to suit for possession by affixing the court fees, has been allowed.

Mr.Amardeep Singh Gill, learned counsel appearing on behalf of the petitioner-defendant submits that the suit, aforementioned, was filed on 15.9.2008. Issues were framed on 21.9.2010. The plaintiff closed his evidence on 8.11.2013 and the case was listed for the evidence of the petitioner-defendant and one witness had been examined. The application

under Order 6 Rule 17 CPC came to be filed on 17.2.2014. The same is

lacking material particulars/compliance of the amended provisions of Order 6 Rule 17 CPC as there is no whisper of expression of due diligence. The amendment sought, if allowed, will totally alter the nature and character of the suit, much less, would tantamount to de novo trial. The judgment relied upon by the trial Court does not apply to the facts and circumstances of the present case as it pertained to the matter when the issues had not been framed and, thus, prays for setting-aside of the impugned order.

Mr.J.K.Goel, learned counsel appearing on behalf of the respondent-plaintiff submits that his client would not lead any fresh evidence as by way of amendment, suit for mandatory injunction is sought to be converted into suit for possession by affixing the court fees. The suit cannot be said to be beyond limitation as the possession has been sought within limitation and, thus, prays for dismissal of the revision petition.

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

At the outset, it has to be seen what kind of amendment has been sought by the respondent-plaintiff. For the sake of brevity, amendment sought to be incorporated reads thus:-

“That value of the suit property for per marla is Rs.90,000/- as such for the purpose of court fee and jurisdiction on the relief of possession the court fee of Rs.19539/- has been affixed on the plaint in the shape of court fee-stamps.”

The plaintiff-respondent has already led evidence vis-a-vis claiming mandatory injunction. Owing to the statement suffered on behalf of the learned counsel for the plaintiff, no fresh evidence would be led in case the amendment sought is allowed. In fact, the amendment sought to be incorporated is for converting the suit for mandatory injunction into suit for

possession by affixing the court fees of ₹19539/- by assessing the value of the property as ₹90,000/-.

In view of the aforementioned facts, I am of the view that the aforementioned amendment will not change the nature of the case, much less alter the cause of action and facilitate the Court in adjudication of the lis between the parties.

No doubt, the judgment relied upon by the trial Court pertained to the amendment having been allowed at the stage when the issues had not been framed. However, the amendment sought in the present case, which in my view, is totally innocuous in nature, will not seriously affect the right of the petitioner-defendant.

Keeping in view of the aforementioned facts, no ground is made out for interference in the order under challenge. The same cannot be said to be passed without jurisdiction.

The revision petition is accordingly dismissed.

February 01, 2016
ramesh

(AMIT RAWAL)
JUDGE