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

**CM No.21788-CII of 2016 in/and
Civil Revision No.7172 of 2014 (O&M)
Date of Decision: 26.10.2016**

GURBIR SINGH SANDHU AND ANOTHER

.....Petitioners

Vs

JAGMOHAN SINGH

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. Deepak Thapar, Advocate
for the petitioners.

Mr. Rajesh Pal, Advocate
for the respondent.

RAJ MOHAN SINGH, J (Oral)

CM No.21788-CII of 2016

For the reasons mentioned in the application, the same is allowed. Accompanying document Annexure P-9/A is taken on record.

Civil Revision No.7172 of 2014

[1]. This revision petition has been directed against the order dated 20.05.2014 passed by Civil Judge (Sr. Divn.) Chandigarh, vide which application under Order 6 Rule 17 CPC filed by the plaintiff for amendment of the plaint was allowed.

[2]. Respondent-plaintiff filed a suit for permanent injunction restraining the defendant/petitioners from interfering in his possession over the suit property as depicted in the headnote of the plaint.

[3]. It can be noticed that an interim order was passed by the trial Court restraining the defendants from raising construction in the suit property. The said order was extended by the trial Court till 15.06.2010 and on 17.07.2010. Thereafter as per interlocutory orders on record of the suit, the order was not extended on 03.08.2010. The proceedings were further adjourned to 20.08.2010 for awaiting report of the demarcation.

[4]. It has been alleged that the defendants in violation of interim order started raising construction at the spot on 06.08.2010. Plaintiff/respondent also asserted that on earlier occasion also the defendants started raising construction. An application under Order 39 Rule 2-A CPC was filed. In reply to the application, the defendants have admitted that they had laid a slab on the construction site. An application was moved by the plaintiff/respondent for demarcation which has been done by the revenue officials.

[5]. There is allegation and counter-allegation viz-a-viz., the spot of encroachment as per demarcation report. Admittedly,

some construction was raised by the defendants at the spot. According to defendants, the construction was raised within the boundary wall which is in their own area. However, the said assertion was denied by the plaintiff/respondent on the ground that the construction was raised by the defendants in the *khasra* numbers which fell under the exclusive ownership of the plaintiff/respondent.

[6]. *De hors*, the allegation and counter-allegation raised by both the sides, it can be noticed that the construction has been raised by the defendants during pendency of the suit. Whether this construction was within the area owned and possessed by the defendants or otherwise, would be gone into by the trial Court at appropriate stage. It is a settled principle of law that all subsequent events can be taken care of by the Court and for which necessary and *bona fide* amendment can be allowed for bringing the subsequent events on record.

[7]. The veracity of allegations would be appreciated by the trial Court at the relevant stage. At this stage, the proposed amendment in question cannot be said to be *mala fide* by any stretch of imagination. The indulgence granted by the trial Court cannot be found to be having suffered with any error of jurisdiction or perversity of any type.

[8]. In view of above, this revision petition is found to be totally devoid of merit and the same is accordingly dismissed.

October 26, 2016

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**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned Yes / No

Whether reportable Yes / No