

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

**CR No.7663 of 2016
Decided on: 15.11.2016**

Joginder Pal @ Joginder Pal Sharma

....Petitioner

Versus

Sumitra Devi and others

....Respondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. Kuldeep Tiwari, Advocate
for the petitioner.

REKHA MITTAL, J. (Oral)

The present petition directs challenge against order dated 15.09.2016 (Annexure P6) passed by the Civil Judge (Sr. Division) Jind whereby application filed by the respondents/plaintiffs under Order 6 Rule 17 of the Code of Civil Procedure (in short 'CPC') for amendment of the plaint has been allowed.

The respondents/plaintiffs have filed a suit for possession by way of specific performance of agreement dated 26.05.2011 registered with Sub-Registrar, Jind vide registration dated 31.05.2011 in respect of land detailed in headnote of the plaint. Before the proceedings reached the stage of framing of issues, the instant application was filed in order to make amendment in para 4 of the plaint on the premise that due to misprinting of computer printer and typographical error after the words “throughout” and before the word “day” the word “next” has been left to be written. After filing of response by the petitioner/defendants and having heard counsel for the parties, the respondents/plaintiffs have been permitted to amend the

plaint as prayed for.

Counsel for the petitioners has submitted that in para 6 of the plaint, there is no reference to appearance of the respondents/plaintiffs before the Sub-Registrar on 31.10.2011. It is further submitted that the plaintiffs have not placed on record any document as an evidence of their appearance in the office of Sub-Registrar, Jind on 31.10.2011.

I have heard counsel for the petitioners and perused the paperbook particularly the order impugned.

Be that as it may, it is the settled position in law that at the stage of deciding an application for amendment of pleadings, the Court cannot examine merits of the facts sought to be pleaded by way of amendment. Equally settled is that amendment of pleadings can be allowed unless it causes such a serious prejudice to the other side for which he cannot be compensated with costs or application is not *mala fide*. In the case at hand, it has been specifically averred in the opening line of para 4 of the plaint that on dated 30.10.2011, office of Sub-Registrar, Jind was closed due to holiday and the plaintiffs remained present throughout the day till evening at the office of Sub-Registrar, Jind along with Rs.80 lacs i.e. remaining amount of sale consideration, costs of stamps and other expenses, etc. Taking into consideration the averments raised in paras 4 and 6 of the plaint, I do not find any reason to interfere in the discretion exercised by the trial Court allowing amendment of the plaint.

For the foregoing reasons, the petition fails and is accordingly dismissed *in limine*. However, nothing stated in this order

shall be construed as an expression of opinion on merits of the case.

15.11.2016
yakub

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No