

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 8026 of 2014

Date of Decision: 27.04.2016

Tej Ram

... Petitioner(s)

Versus

Manju Rani and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

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| 1. | Whether reporters of local newspapers may be allowed to see judgment? | Yes |
| 2 | To be referred to reporters or not? | |
| 3 | Whether the judgment should be reported in the Digest? | Yes |

Present: Mr. Aman Priye Jain, Advocate
for the petitioner(s).

Shekher Dhawan, J.

Present petition is challenge to the order dated 5.11.2014, passed by learned Civil Judge (Senior Division), Gurgaon, whereby application under Order 6 Rule 17 CPC, filed by plaintiff/petitioner, for amendment of plaint was declined.

Learned counsel for the petitioner submitted that original suit for permanent injunction was filed on the ground that plaintiff is owner in possession of the residential plot in question and prayed that his possession be protected and alternative prayer was made that in the event of defendants illegally succeeding in encroaching upon the

property of the plaintiff during pendency of the suit, decree for mandatory injunction directing the defendants to hand over the possession of suit property to the in its original form be passed in favour of the plaintiff. In the application filed under order 6 Rule 17 CPC, petitioner took the plea that during pendency of the suit he was dispossessed from the suit property, which is owned by the plaintiff and construction was raised thereon. However, the Court below dismissed the application on the ground that applicant has failed to mention any date when the construction was started by the respondents; nothing has been mentioned as to what effort was made for stopping the construction; no date or month has been mentioned about dispossession of the petitioner from the suit property and as such application for amendment of plaint is vague and dismissed the same.

Learned counsel for the petitioner submitted that the Court below has not considered the correct facts and the impugned order is liable to be set aside. Petitioner had sought amendment only on the ground that he was dispossessed during pendency of the suit and the proposed amendment was essential for just decision of the case and present petition be accepted.

Having considered learned counsel for the petitioner; perusal of the record and the impugned order, this Court is of the considered view that the Court below has rightly observed that applicant has failed to make out any case for amendment of plaint because he has not been able to mention any date or month of his dispossession from the suit property, which was most relevant for

decision of the application. If petitioner has come with the plea that he has been dispossessed from the suit property during pendency of the suit and construction has been raised, the said facts must have been detailed in the application under order 6 Rule 17 CPC or at least in the present petition itself. But the petitioner has not been able to make out any case as to when he was actually dispossessed or when illegal construction was raised. Learned counsel for the petitioner was unable to give any date of dispossession of the petitioner from the suit property or raising of illegal construction thereon. Law on the point is settled that amendment of pleadings can be allowed only if the same are relevant for the just decision of the case and vague application for amendment of the pleadings cannot be allowed in a casual manner. The Court below has rightly dismissed the application vide impugned order.

In view of above, present petition is without any merit and the same stands dismissed.

(Shekher Dhawan)
Judge

April 27, 2016
"DK"