

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

**CR No. 8912 of 2015 (O&M)
Date of decision :29.04.2016**

Jai Kumar and another

..... Petitioners

Versus

Amarjit Singh and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr.Ajay Bharadwaj, Advocate
for the petitioners.

- 1. Whether Reporters of Local papers may be allowed to see the judgment?Yes.**
- 2. To be referred to the Reporters or not?Yes.**
- 3. Whether the judgment should be reported in the Digest?Yes.**

DARSHAN SINGH, J. (Oral)

The present revision petition has been preferred against the order dated 07.11.2015 passed by the learned Civil Judge (Junior Division), Kurukshetra, vide which the application moved by the plaintiffs-respondents under Order 6 Rule 17 of the Code of Civil Procedure, 1908 (for short 'CPC') for amendment of the plaint has been allowed.

2. Learned counsel for the petitioners contended that after the commencement of the suit, the plaintiffs-respondents have moved an application for amendment of the plaint to challenge the legal notice issued by the petitioners. He

contended that as the trial has already commenced, so the learned trial Court was not competent to grant permission to amend the plaint. Thus, he pleaded that the impugned order is illegal.

3. I have duly considered the aforesaid contentions.

4. The plaintiffs-respondents have filed the suit for possession by way of specific performance of the agreement to sell dated 27.04.2013. As per averment in the application for amendment of the plaint, the plaintiffs-respondents have filed the suit on 17.07.2013. The petitioners-defendants got issued the legal notice dated 13.07.2013, which was posted on 15.07.2013 and was received by the plaintiffs on 20.07.2013 i.e. after the institution of the suit. The reply to the said notice was sent on 22.07.2013, which was received by counsel for the petitioners on 24.07.2013. By way of amendment, the respondents-plaintiffs wants to challenge the said legal notice which has been received by them after the institution of the suit, wherein the petitioners-defendants have claimed that the agreement to sell stands forfeited and cancelled because the plaintiffs-respondents have failed to perform their part of contract. Thus, admittedly the said legal notice has been received by the plaintiffs-respondents after institution of the suit and is a subsequent event. This plea was not available to the plaintiffs-respondents at the time of filing the suit. The proposed amendment is essential for the purpose of

determining the real question in controversy between the parties and will also not change the nature of the suit.

5. Thus, this Court does not find any illegality in the discretion exercised by the learned trial Court to allow the application moved by the plaintiffs-respondents for amendment of the plaint.

6. Therefore, the present revision petition having no merits, is hereby dismissed.

29.04.2016

S.khan

**(DARSHAN SINGH)
JUDGE**