

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.8788 of 2014 (O&M)

Date of Decision.12.01.2016

Ajit Singh

.....Petitioner

Vs.

Jaspal Singh

.....Respondent

Present: Mr. Premjit Kalia, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

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?

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K. KANNAN J. (ORAL)

C.M. No.259-CII of 2016

For the reasons stated in the application, order passed by this Court on 22.12.2015 is recalled and the revision petition is restored to its original number.

Application is allowed.

C.R. No.8788 of 2014

1. The revision petition is against an application for amendment moved by the plaintiff for seeking for the relief for specific performance. The suit had been originally filed for mandatory injunction for recovery of possession of property that was subject of agreement. The agreement recited a cash consideration of ₹8 lacs as having been paid by the plaintiff to the defendant and that the defendant was obligated to deliver possession of the property. Since it was not done, the suit for mandatory injunction was filed.

2. Subsequent to the institution of the suit, it appears that the defendant has also made his title perfect by securing an allotment/assignment from the State machinery and the plaintiff has now sought for the relief of specific performance. The contention is that there is no agreement to even sell the property under the document and therefore, specific performance cannot be granted.

3. The objection of non-enforceability of the document is issue on merit which will be considered only at the time of trial and it cannot be pre-judged now. The amendment surely takes note of a subsequent event which was not known at the time of institution of suit and therefore, the plaintiff cannot be stated to have omitted to state some aspect of the case which he had already known or which he could have known with due diligence. Subsequent event is invariably a good ground for bringing an application for amendment.

4. The counsel states that the claim would be barred by limitation. This issue will also be brought at the time of written statement that could be allowed to be filed either by means of amendment or by means of additional pleading as contemplated under Order 8 Rule 9 CPC and there will be no justification for making any intervention with the order already passed. The revision petition is dismissed allowing however, the liberty to file the additional pleas or amendment in the manner referred to above.

(K. KANNAN)
JUDGE

January 12, 2016
Pankaj*

