

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

Civil Revision No.2272 of 2016 (O&M)
Date of decision: April 26, 2017

Rajender Mohan

...Petitioner

Versus

Hisar Improvement Trust & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Ms. Ritu Pathak, Advocate for the petitioner.

Mr. Nitin Jain, Advocate for respondents No.2 to 7.

Rajan Gupta, J.

Present revision petition is directed against the order dated 14.03.2016, passed by the trial court, whereby application moved by the petitioner for amendment of pleadings has been rejected.

It has been urged before the court that during the pendency of the suit defendant No.1 had alienated the suit land in favour of defendants No.3 and 4. Possession had also been handed over. Thus, prayer clause of the suit needs to be amended. Trial court dismissed the application observing that same could not be allowed after commencement of trial. Besides, it was not convinced that despite due diligence plaintiff could not have raised this plea earlier. Prayer has been opposed by counsel representing respondents No.2 to 7. He submits that application filed by the petitioner is frivolous in nature. Besides, petitioner was pursuing the case as attorney holder of Oma Devi, who had since expired. His locus standi to pursue the litigation is, thus, doubtful.

I have heard learned counsel for the parties and given careful thought to the facts of the case.

It appears that auction of the property in question was held on 27.9.2004. Petitioner himself participated in the same as well as Smt. Oma Devi being her GPA. He deposited Rs.20,000/- as earnest money. It appears, another amount of Rs.3,09,000/- was deposited by defendant No.2 to make good 25% of the auction amount. Later a dispute arose between the parties. Plaintiff filed instant suit against the defendants. After the suit had made considerable headway, petitioner moved instant application for amendment of pleadings. Same was rejected by the court below observing that by proposed amendment, plaintiff wanted to convert it to a suit for possession claiming that he and proforma respondents were owners in possession thereof. It observed that suit had been pending since the year 2010, plaintiff could not be allowed to seek amendment in the same at such a belated stage. It is inexplicable why he could not seek necessary amendment by exercising due diligence at the appropriate stage. I find no infirmity with the order. There is no ground to interfere in revisional jurisdiction. Admittedly, the case has made considerable headway and has reached the stage of arguments. Petition is without any merit and is hereby dismissed.

(RAJAN GUPTA)
JUDGE

April 26, 2017
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No