

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

114

Civil Revision No.218 of 2017

Date of decision: 17.01.2017

Avtar Singh and others

..... Petitioners

Versus

Joginder Singh and others

... Respondents

CORAM:HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Amardeep Singh Gill, Advocate for the petitioners.

ARUN PALLI, J. (Oral)

Vide order being assailed, dated 30.11.2016, rendered by Civil Judge, Junior Division/NRI Cases, Jalandhar, application moved by the respondents-plaintiffs, under Order VI Rule 17 of the Code of Civil Procedure, has since been allowed.

In a suit filed by the plaintiffs-respondents, they have prayed for a declaration that they have become owners of the suit property with afflux of time, for the right of redemption of Sh. Bawa Singh @ Babu s/o Nihala, on the basis of mortgage deed dated 07.07.1976, stands extinguished. The plaintiffs-respondents, purport to be the mortgagees with possession. Consequently, they have assailed the sale deed dated 06.01.2011, as also the order of resumption, dated 18.09.2015.

All what is sought to be urged by way of proposed amendment is that on 25.02.2016, defendants No.1 & 2 with the help of 20-25 men, succeeded to dispossess the plaintiffs, but, inadvertently, the requisite pleadings, in this regard, were not incorporated in the plaint, albeit, a decree for possession has already been prayed for.

Concededly, the petitioners are yet to file the written statement and, thus, the suit is still at the initial stage. The plea of the petitioners-defendants that the story, in so far as the alleged dispossession of the plaintiffs on 25.02.2016 is false, is something that concerns the merits of the amendment. Needless to assert, that the petitioners-defendants shall be at liberty to adduce the necessary evidence to substantiate the said plea, and show that since they had already obtained possession, pursuant to redemption of the suit property, there was no occasion to dispossess the plaintiffs.

Ex facie, the plaintiffs-respondents have prayed for a decree for possession, and, all what they intended to plead by way of amendment, was their alleged dispossession prior to the institution of the suit.

Learned counsel for the petitioners is unable to show as to how the amendment granted by the trial court, alter the nature and character of the suit and cause any prejudice to the case of the petitioners-defendants.

That being so, no interference is warranted in exercise of revisional jurisdiction under Article 227 of the Constitution of India. Petition being devoid of merit is accordingly dismissed.

January 17, 2017
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(Arun Palli)
Judge

Whether speaking / reasoned:	YES/NO
Whether Reportable:	YES/NO