

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

Civil Revision No.4525-2016 (O&M)

Date of decision: April 21, 2017

Vidhi Gupta

...Petitioner

Versus

Nirmal Gupta and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Sanjay Mittal, Advocate for the petitioner.
Mr. Suman Jain, Advocate for respondents No.1 & 2.
Ms. Rubina, Advocate for respondent No.3.

Rajan Gupta, J.

Present revision is directed against the order dated 24.05.2016, passed by Civil Judge (Junior Division), Gurgaon, whereby application under Order 6 Rule 17 CPC filed by the petitioner/plaintiff for amendment of plaint has been rejected.

Learned counsel for the petitioner has assailed the order. He submits that there are certain subsequent events which are necessary to be incorporated in the plaint. Suit was filed for permanent injunction, but now right to seek possession and specific performance has accrued, therefore, it is necessary to amend the plaint. As per provisions of Order 6 Rule 17 CPC, application for amendment can be allowed at any stage.

Plea has been opposed by learned counsel for the respondents on the ground that property in dispute had already been transferred in favour of defendant No.1 much prior to institution of the suit. Moreover, the application filed by her is time barred as same was filed at a very belated stage only to delay the proceedings. By way of proposed amendment,

plaintiff wants to change nature of the case and it would lead to *de novo* trial.

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

It appears, petitioner/plaintiff filed a suit for permanent injunction against the respondent/defendants restraining defendants No.1 and 2 from alienating the suit property. During pendency of suit, petitioner/plaintiff filed instant application under Order 6 Rule 17 CPC for amending the plaint. Trial court rejected the prayer observing that plaintiff cannot be permitted to amend the plaint at such a belated stage as her evidence had already been concluded. I find no legal infirmity with the order. A perusal of impugned order shows that initially the property in question was allotted to the plaintiff and her husband Amit Gupta and subsequently, same was transferred in the name of defendant no.1 by defendant No.3 on the basis of affidavit allegedly signed by the plaintiff, in the year 2006 i.e. much prior to filing of the suit. Suit was instituted on 04.09.2010. Issues were framed on 13.8.2013. Despite numerous opportunities, plaintiff failed to conclude her evidence. It reveals that plaintiff filed the instant application only to delay the proceedings of the suit. Thus, proviso to Order 6 Rule 17 CPC would be attracted to the case. The revision petition is, thus, without any merit and is hereby dismissed.

April 21, 2017
'Rajpal'

(RAJAN GUPTA)
JUDGE

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No