

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

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**CR-6216-2015 (O&M)
Date of decision: 02.08.2017**

SAHIB SINGH @ GURSEWAK AND OTHERS

...Petitioners

Versus

PARGAT SINGH AND OTHERS

...Respondents

CR-6297-2015 (O&M)

DAVINDER SINGH

...Petitioner

Versus

PARGAT SINGH AND OTHERS

...Respondents

CORAM: HON'BLE MR. RAMESHWAR SINGH MALIK

**Present: Mr. Anil Chawla, Advocate
for the petitioners in CR-6216-2015.**

None for the petitioner in CR-6297-2015.

**Mr. Inderpal Singh, Advocate for
Mr. Anoop K. Yadav, Advocate
for respondent No.1 in CR-6216-2015.**

**Mr. Mandeep K. Dhot, Advocate
for respondent No.1 in CR-6297-2015.**

RAMESHWAR SINGH MALIK, J. (ORAL)

**These two identical revision petitions between the same parties
are being disposed of vide this common order, with the consent of learned**

counsel for the parties. However, for the facility of reference, facts are being culled out from CR No.6216 of 2015.

Both the revision petitions are directed against identical order dated 21.08.2015, whereby applications moved by the defendants under order 6 rule 17 read with 151 CPC, seeking formal amendment in their written statement, were dismissed.

Notice of motion was issued.

Heard learned counsel for the parties.

During the course of arguments, when learned counsel for the respondents/plaintiffs was confronted with the averments, proposed to be taken in para 5 of the written statement, reproduced at page 9 of the paper book, to point out as to what kind of prejudice was likely to be caused to the plaintiff, he had no answer and rightly so, it being a matter of record.

In fact, a bare perusal of the proposed averments in para 5 of the written statement, at page 9 of the paper book, would show that it was only formal amendment. Plaintiff was not going to be taken by surprise as the amendments sought were based on documents, including sale deed and mutation already known to the parties, including the plaintiff.

Under these circumstances, disallowing the amendments in a written statement would certainly cause serious prejudice to the petitioners, whereas allowing said amendment would not cause any kind of prejudice to the plaintiff/respondent. Having said that, this Court feels no hesitation to conclude that since the learned trial Court could not appreciate the

abovesaid factual aspect of the matter, the impugned order cannot be sustained.

Further, it is settled proposition of law that rules of procedure are meant for advancing the cause of justice. Every Court of law must make an endeavour to grant reasonable opportunity to both the parties to the litigation to put up their respective best cases before the Court. Nobody should be forced to go home with the grievance that he was not granted due opportunity to put up its best case.

While proceeding on this principle of law, the learned courts would be achieving twin objects; i) they would be avoiding multiplicity of litigation and ii), the learned courts would be in a much better position to do substantial justice between the parties. It is equally true that while doing the complete and substantial justice, technicalities must not be allowed to stand in the way of imparting justice. Since in the case in hand, the learned trial court could not appreciate the abovesaid principle of law, while passing the impugned order, the same cannot be sustained, for this reason also.

During the course of hearing, learned counsel for the respondents could not raise any meaningful arguments in support of the impugned order and rightly so as the impugned orders are not found based on sound reasons.

No other arguments were raised.

Considering the peculiar facts and circumstances of the case

noted above, coupled with the reasons aforementioned, this Court is of the considered view that since the impugned order has been found suffering from patent illegality and perversity, the same cannot be sustained. Accordingly, both the impugned orders of even date, i.e. dated 21.08.2015, separately passed in both the cases, by the learned trial Court, are hereby set aside. Consequently, application under order 6 rule 17 read with Section 151 CPC moved by the defendants, seeking amendments in their written statement, would stand allowed. Defendants/petitioners shall be permitted to file their amended written statement. Thereafter, the learned trial Court shall proceed further with the case, in accordance with law.

Resultantly, with the abovesaid observations made and directions issued, both the revision petitions stand allowed, however, with no order as to costs.

02.08.2017
Jyoti-IV/ashok

(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned:	Yes	No
Whether Reportable:	Yes	No