

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

CR No.6063 of 2017  
Date of decision : 03.10.2017

Gurmail Singh

...Petitioner

Versus

Harjit Singh and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. Navjot Singh, Advocate for the petitioner.

Mr. Kanwal Goyal, Advocate for the respondents.

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**ANIL KSHETARPAL, J. (ORAL)**

The plaintiff is in revision petition against the order dated 12.07.2017 passed by the trial Court dismissing the application filed under Order 6 Rule 17 CPC seeking amendment of the plaint as well as application under Order 39 Rules 1 and 2 CPC.

The plaintiff had filed a suit for permanent injunction. In para No.5 of the plaint, the plaintiff asserted as under:-

*“5. That yesterday, the defendants alongwith their associates came at the house and tried to dispossess the plaintiff from the house forcibly, illegally and the defendants also threatened that they will interfere in the peaceful possession of the plaintiff over the house but the plaintiff with their timely intervention made the attempt of the defendants futile and they alongwith their associates went away from the house but while going the defendants were*

*openly threatening that they will dispossess the plaintiff from the house illegally and forcibly in near future.”*

Before the issues were framed, the plaintiff filed an application for amendment in para No.5 of the plaint. In the application, it was stated as under:-

*“2. That inadvertently, in para no.5 of the plaint and in para no.7 of application u/o 39 Rule 1 and 2 CPC, the plaintiff has mentioned that the defendants alongwith their associates came at the house and tried to dispossess the plaintiff from the suit house forcibly, illegally and the defendants also threatened that they will interfere in the peaceful possession of the plaintiff over the house but the plaintiff wanted to mention that the defendants no.2 and 3 at the instance of defendant no.1 alongwith their associates came at the house and tried to dispossess the plaintiff from the suit house forcibly, illegally and the defendants no.2 and 3 at the instance of defendant no.1 also threatened that they will interfere in the peaceful possession of the plaintiff over the house. This mistake was occurred typographically.”*

The aforesaid application has been dismissed by the trial Court on the ground that the plaintiff is trying to fill up the lacuna.

I have heard learned counsel for the parties at length and with their able assistance gone through the documents available in the paper book.

The suit was instituted on 27.02.2015. At the time when the application seeking amendment was filed, even issues had not been framed. In other words, the trial had not commenced. A reading of the application seeking amendment of the plaint would show that the plaintiff was only

trying to specify and make categoric assertions in the plaint. It was pleaded that the aforesaid mistake has occurred due to typographical mistake.

Be that as it may, the law with regard to the amendment of the pleadings before commencement of the trial is quite liberal. Proviso to Order 6 Rule 17 CPC would not apply in the present case. Once the case was at the initial stage and the plaintiff after having realizing its mistake moved an application which is only clarifying the earlier assertions made, I do not find any justification for rejection of the same.

The basic assertions in the pleadings remain the same and there is no change. Before the commencement of the trial, the Courts have to be liberal in granting the permission to amend the plaint. In the present case, the amendment was not substantive. It was only clarificatory.

For the reasons recorded above, the order passed by the trial Court dated 12.07.2017 is set aside.

Revision petition is allowed.

Any observation made by this Court while allowing the application for amendment would not be taken as an expression of opinion on the merits of the case.

**03.10.2017**

*Pawan*

**(ANIL KSHETARPAL)  
JUDGE**

**Whether speaking/reasoned:-                      Yes/No**

**Whether reportable:-                                  Yes/No**