

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

**Civil Revision No.6611 of 2015 (O&M)
Date of decision: 20.09.2017**

Ajit Singh

.....Petitioners

Versus

Palwinder Pal Singh and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Aayush Gupta, Advocate,
for the petitioner.

Mr. Satbir Rathore, Advocate,
for respondent No.1.

Mr. Shrey Goel, Advocate,
for Mr. Rishabh Gupta, Advocate,
for respondent No.2.

Ritu Bahri, J.

Challenge in this petition is to the order dated 12.08.2015 (Annexure P-3) passed by the Civil Judge (Junior Division), Dasuya, whereby application filed by petitioner-defendant No.4 under Order 6 Rule 17 CPC for amendment of the written statement, has been dismissed.

Plaintiff-respondent No.1 has filed a suit for separate possession of land measuring 8 Kanals 6½ Marlas, as detailed in the plaint, alleging that his father-Surjit Singh was owner of the land and he has transferred the same in his name vide transfer deed dated 02.02.2010. Mutation in that regard has also been sanctioned in his name. It was further alleged that the

defendant No.1 (respondent No.2) has sold some part of the property without the consent of the plaintiff or his father.

Upon notice, defendant No.4 (present petitioner) filed a separate written statement stating that vide registered sale deed dated 11.05.2001, he had purchased land measuring 1 Kanals 2 Marlas out of the suit property with specific boundaries and specific dimensions. The said land abuts to the main road and he has raised boundaries all around the property so purchased.

Later on, defendant No.4-petitioner has filed an application for amendment of the written statement by taking a plea that in the sale deed dated 11.05.2001, there was a mistake in mentioning of the correct khasra numbers and subsequently, defendant No.1 (respondent No.2) and defendant No.4 (petitioner) have executed an exchange deed dated 28.05.2015, which was registered on 01.06.2015, regarding correct khasra numbers. Now, the petitioner wanted to amend the written statement by adding para No.3 (A) therein.

While dismissing the application, trial Court has observed that the present petitioner (defendant No.4) had filed a suit for declaration to correct the sale deed dated 11.05.2001 on the ground of mutual mistake, but the said suit was dismissed by the Court. It was further observed that sale deed dated 11.05.2001 was executed with regard to Khasra No.28//21/1 and 29//25, whereas in the exchange deed dated 28.05.2015, khasra numbers are mentioned as 32//61, 32//6/1 and 33//1/1. Hence, the amendment will create new facts with regard to the sale deed dated 11.05.2001 and will change the nature of the suit.

Moreover, the exchange deed dated 28.05.2015 has been executed

during the pendency of the suit and it would be governed by the principle of *lis pendence*.

After hearing learned counsel for the parties and going through the impugned order, this Court is of the view that application for amendment of the written statement has been rightly dismissed. Once the suit filed by defendant No.4-petitioner for correction of the sale deed had already been dismissed, he cannot seek amendment in the written statement at this stage.

No illegality, much less perversity, has been found in the impugned order warranting interference by this Court.

Dismissed. However, petitioner is at liberty to proceed with the exchange deed before the trial Court in accordance with law.

20.09.2017
ajp

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No