

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

**C. R No. 6327 of 2017 (O&M)
Date of decision : 20.12.2017**

Kanwal Pal Singh & anr.

....Petitioners

versus

Dharamwati and ors.

...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Yashasvi Kapila, Advocate for
Mr. Kunal Dawar, Advocate
for the petitioner.

RITU BAHRI, J. (Oral)

Petition has field the present petition under Article 227 of the Constitution of India for setting aside order dated 23.08.2017 passed by learned Addl. Civil Judge (Sr. Divn.) Hathin whereby the application of respondent No. 1 under Order 6 Rule 17 CPC for amendment of the plaint at the stage of plaintiff evidence has been allowed.

A bare perusal of the impugned order shows that plaintiff/respondent No. 1 is asserting herself as owner in possession along with other co-sharer over the suit property. It is a matter of evidence whether she is in possession over the suit property or not. Further litigation titled as Jaipal v. Kumar Pal etc in respect of the suit property was pending and for deciding the controversy in the present case, the Court below relied upon judgment of Hon'ble the Supreme Court of India in cases of *L.C.*

Hanumanthappa (since deceased) represented by his LR's v. H.B.

Shivakumar 2015(4) RCR (Civil) 195 and Mahila Ramkali Devi and

others v. Nandram (D) through LR's and others 2015(5) RCR (Civil) 562.

The amendment was allowed rightly as the Court has to reach at just decision of the case for deciding controversy between the parties. It was matter of evidence whether the plaintiff is in possession or not and the alternative relief could not be said to be the fact that it would change the nature of the suit.

No merits.

Dismissed.

20.12.2017

G.Arora

Whether speaking/reasoned
Whether reportable

Yes
No

(RITU BAHRI)
JUDGE