

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

121

CR No.6730 of 2017
Date of decision: 28.09.2017

Ajaib Singh

..... Petitioner

Versus

Mohinder Kaur and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Munish Garg, Advocate
for the petitioner.

ANIL KSHETARPAL, J. (ORAL)

Defendant is in revision petition against the order dismissing the application under Order 6 Rule 17, CPC seeking amendment of the written statement. Learned trial Court has noticed that the case is at the stage of arguments and defendant had also availed opportunity even for additional evidence. The learned Court has further observed that the amendments sought for would change the entire nature of defence taken by the defendant.

Learned counsel for the petitioner has submitted that the defendant only wants to add one word i.e. "Gair Marusi". Learned counsel for the petitioner has further pointed out that in the revenue record, the plaintiff is being shown as tenant. At this stage, it would be relevant to notice that the plaintiff had filed a suit for possession against defendant-petitioner asserting that the defendant is in possession as a tenant. Head note of the plaint as re-produced by the petitioner reads as under:-

“a) 15 Kanal 15 marla, khata khatoni No.2870/2701 min/4892 Khasra No.49C/6min/3-5, 7/8-C, 8-c, 8mind/4-10, situated at Dhanaula (E) Tehsil Barnala.

b) Land measuring 68 kanal 6 marla khata khatoni no.2870/1, 2701 min/4894 Khasra No.440/25/5.5, 441/12/3-12, 19/7-16, 20/2-8, 22/1/0-16, 489//1//8-0, 2/1/0-16, 9/2/0-16, 10/8-0, 490//4/4-18, 5/8-0, 6min/4-15, 8 min/4-10 situated at Dhanaula (E), Tehsil Barnala in which the defendant is in possession as a tenant and is not a bonafide cultivator so the plaintiffs may be given the possession of this property by taking the possession from the defendant as they are the owner of the land and suit for permanent injunction to the effect that the defendant may restrained from changing the nature of property, digging soil from the property by him or any other person on his behalf during the pendency of this litigation.”

Still further, as per Order 6 Rule 2, CPC, the pleadings have to be concise and specific. In the present case, parties went to trial and led their evidence knowing fully about the case put up by the other party. At the stage of arguments, the defendant cannot be permitted to change the stand.

Still further, as per Proviso to Order 6 Rule 17, CPC normally the amendment of the pleading cannot be permitted after the commencement of the trial. In the present case, the case is at the stage of final arguments.

In view of the above, I do not find any good ground to interfere with the revision petition.

Revision petition is dismissed.

(ANIL KSHETARPAL)
JUDGE

28.09.2017
Dinesh Bansal

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No