

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

CR No.7206 of 2015

Date of Decision: 09.11.2017

Om Parkash

.....Petitioner

Versus

Hukam Singh

... Respondent

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Vivek Khatri, Advocate
for the petitioner.

Mr. Mohit Rathi, Advocate
for the respondent.

RAJ MOHAN SINGH, J.(ORAL)

CM No.23936-CII of 2017

For the reasons mentioned in the application, the same
is allowed.

Accompanying document is taken on record.

Main case

[1]. Petitioner has challenged the order dated 04.08.2015
passed by Civil Judge (Junior Division), Jhajjar, whereby the
application filed by the petitioner under Order 6 Rule 17 read
with Section 151 CPC for amendment of prayer was declined.

[2]. Plaintiff/petitioner filed a suit for permanent injunction
on the ground that he is owner in possession of plot No.168/3
measuring 100 sq. yards situated in the *abadi deh* of village
Beri, Tehsil Beri, District Jhajjar. The said plot was allotted to

the plaintiff and others in partition suit i.e. Civil Suit No.319 of 1971 titled Hukma etc. Vs. Jug Lal. The final decree was drawn thereafter. Defendant/respondent was allotted adjoining plot No.168/2.

[3]. Perceiving positive threats of encroachment at the hands of the defendant/respondent as he had collected rodi, bajri, bricks in the plot, an application under Order 39 Rules 1 and 2 CPC was filed by the plaintiff/petitioner which was initially granted in the form of interim injunction vide order dated 20.01.2011 and thereafter, the same was confirmed on 11.05.2011. Appeal filed by the defendant/respondent was dismissed on 04.02.2013 and thereafter even police help was allowed in favour of the plaintiff/petitioner on 01.10.2013. In respect of violation of the order, proceedings in terms of Order 39 Rule 2-A CPC are pending.

[4]. By means of proposed amendment, plaintiff/petitioner sought to incorporate alternate prayer for possession in case plaintiff is dispossessed and not found to be in possession of the suit property at the time of conclusion of the trial. The amendment is sought in the prayer clause for consequential relief of possession in the event of his dispossession during pendency of the suit. Such type of prayer in the form of subsequent events can be taken note by the trial Court.

[5]. In view of nature of prayer and facts on record, I deem it appropriate to allow the plaintiff/petitioner to amend the prayer clause of the suit by incorporating the plea of alternative relief if the plaintiff is found to be dispossessed during pendency of the suit only. This is however subject to payment of cost of Rs.10,000/- to be paid to the defendant/respondent. Payment of cost shall be the condition precedent for granting indulgence by the trial Court in the aforesaid context.

[6]. Disposed of.

09.11.2017

prince

Whether Reasoned/Speaking

Whether Reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No