

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

CR No. 7245 of 2016

Date of Decision: 06.07.2017

ASHOK KUMAR AND ANR

-PETITIONERS

VS

LAKHWINDER SINGH AND ANR

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Surinder Garg, Advocate,
for the petitioners.

Mr. Rajiv Joshi, Advocate,
for the respondents.

RAJ MOHAN SINGH, J. (ORAL)

Petitioners have filed this revision petition against the order dated 04.10.2016 passed by Civil Judge (Junior Division), Sunam vide which application for amendment of plaint was rejected.

Plaintiffs sought amendment in the address of plaintiff No.2 mentioned in the head note of the plaint where word 'Sunam' has been inadvertently mentioned instead of 'Sangrur' and Khasra No.305//15 min (0-19) was also left to be mentioned in the plaint which was under ownership of the plaintiffs.

The nature of amendment sought was only in respect of mentioning of word 'Sangrur' in place of 'Sunam' and giving one Khasra number and its area at the stage of plaintiffs evidence.

This Court vide order dated 26.10.2016 at the time of issuance of notice of motion allowed the petitioners to lead evidence in terms of proposed amendment.

Learned counsel for the respondents, however, objected to the aforesaid course on the ground that the case itself has reached at the fag end where such an amendment should not be allowed.

It is a settled law that an amendment in the pleadings is to be liberally construed so as to consider real dispute between the parties and to give effective decision on the basis thereof. The proviso to the Rule to some extent curtails absolute discretion of the Court to allow the amendment at any stage, however knowledge and due diligence are considerations on which bonafide of the party has to be tested in order to prevent frivolous application. The object of the Rule is that the Court must try the merit of the case and allow all amendments which may be necessary for determination of real controversy between the parties. On the strength of **Ram Chandra Shakharaman Mahajan v. Damodar Trimbak Tanksale (2007) 6 SCC 737** and **Rajesh Kumar Aggarwal v. K.K. Modi AIR 2006 SC 1647**, it can be appreciated that Order 6 Rule 17 CPC is in two parts. First part is discretionary and leaves it to the Court to order amendment in pleading but second part is imperative and enjoins the Court to allow all amendments which are necessary for determining real

issue between the parties.

Having considered the nature of amendment sought, I deem it appropriate to allow the prayer. Since, replacement of word 'Sunam' is being sought with word 'Sangrur' with an addition of one Khasra number with its area, therefore, in my considered opinion, no prejudice is going to be caused by incorporating such an addition by way of amendment as it will not change the nature of suit in any manner. Even otherwise, at the time of issuance of notice of motion, plaintiffs-petitioners have already been allowed to lead evidence in terms of proposed amendment.

It has been brought out that petitioners have already complied with the aforesaid direction.

Accordingly, this revision petition is allowed, however, subject to payment of costs of Rs.10,000/-.

Payment of costs shall be the condition precedent for granting indulgence by the trial Court. It is made clear that the aforesaid amendment will not open the door for the plaintiffs to seek any other clarification based on such amendment.

06.07.2017
jjyoti Y.

(RAJ MOHAN SINGH)
JUDGE

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