

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-8628-2014 (O & M)

Date of decision: 17.05.2017

Desh Raj

.... Petitioner

V/s

O.P. Chhabra

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. V.K. Jain, Sr. Advocate, with Mr. Kuldeep Singh, Advocate,
for the petitioner.

Mr. Lokesh Vohra, Advocate, for Mr. Sandeep Sharma,
Advocate, for the respondent.

Rajan Gupta, J. (Oral)

Present revision petition is directed against the order passed by the trial court whereby an application of the petitioner to amend the plaint has been rejected. It has been urged before the court that plaintiff moved application at the very initial stage of the suit even issues had not been framed till then. Trial court, thus, ought to have allowed the prayer for amendment.

Plea has been opposed by the counsel representing the respondent. According to him, plaintiff cannot be allowed to amend the pleadings because a stand has already been taken by the defendant in the written statement. According to him, plaintiff can rebut the pleadings by way of replication.

I have heard learned counsel for the parties and given a thoughtful consideration to the facts of the case. It appears that the plaintiff filed a suit for possession with consequential relief to injunct the defendant from changing the nature of the property. After issuance of notice, defendant filed written statement and relied upon certain documents including certain judgments to claim that he was owner in possession of the property. He also filed a counter-claim. Before, issues could be framed, instant application was moved by the plaintiff to amend the plaint particularly, para 9 and the prayer clause. This plea has been rejected by the court below by a short and cryptic order observing that the amendment was not necessary for determining the real question involved and nature of controversy between the parties. Besides, plaintiff could not be allowed to raise a new plea.

I find that order passed by the court below is unsustainable. Admittedly, application for amendment was moved at the very initial stage of the suit. Plaintiff would have no interest in delaying the proceedings as the suit has been instituted by him. He is stated to be 80 years old at present. Under the circumstances, I find it is a fit case for interference in revisional jurisdiction and allow the plaintiff to amend the pleadings. However, parties are not clear whether any amended plaint has been submitted alongwith the application under Order 6 Rule 17 CPC. Mr. Jain, learned Senior counsel submits that a comprehensive plaint for amendment only in those paras which are stated in the application under Order 6 Rule 17 CPC

shall be filed before the court within 02 weeks. In case, needful is done, plaintiff would be entitled to amend the pleadings accordingly. Impugned order is, thus, set aside. Revision petition is allowed subject to payment of Rs.10,000/- as costs to be remitted to the defendant.

Needless to say that defendant shall be at liberty to rebut the pleadings by way of written statement.

May 17, 2017
sukhpreet

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No