

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

Civil Revision No.983 of 2014 (O&M)

Date of decision: January 31, 2017

Gurcharan Singh

...Petitioner

Versus

Harjinder Kaur and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Harpinder Singh, Advocate for
Mr. Vikram Anand, Advocate for the petitioner.
Mr. A.S. Khinda, Advocate for respondents No.1 & 2.

Rajan Gupta, J.(oral)

Present revision petition is directed against the order dated 04.12.2013, passed by Civil Judge (Jr. Division), Kapurthala, whereby application for amendment of written statement has been rejected.

Order has been assailed on the ground that amendment in the written statement was sought when the suit was still at the initial stage. Certain pleadings had to be incorporated in the written statement, which are material for decision of the lis. Besides, no prejudice would be caused to the plaintiffs if amendment in the written statement is allowed to be made.

Plea has been opposed by counsel for the respondents. According to him, all the facts were in the knowledge of the defendant at the time of filing earlier written statement. His effort is merely to delay the proceedings.

I have heard learned counsel for the parties and given careful

thought to the facts of the case.

Plaintiffs instituted a suit for possession by way of specific performance on the basis of agreements to sell dated 11.5.1998 and 23.5.2001 with respect to 28 Kanals of land. Suit was instituted on 18.7.2011. Thereafter, written statement was filed by the defendant/petitioner. Instant application was thereafter moved to incorporate certain amended pleadings in the written statement. Plea has been rejected by the court below observing that numerous changes were proposed in the stand taken by the defendant. I find the order unsustainable. Admittedly, suit was at its initial stage when the proposed amendment was sought. It is well settled that amendment in the plaint and that in the written statement are on a different footing. Defendant only wishes to incorporate certain averments relating to facts and policy of Government in the written statement. In my considered view, petition deserves to be allowed. The impugned order is, thus, set-aside. Petitioner shall, however, be liable to pay ₹10,000/- as costs to the respondent/plaintiffs.

Allowed in these terms.

(RAJAN GUPTA)
JUDGE

January 31, 2017
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No