

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

CR No.985 of 2017.

Date of Decision: 13.02.2017.

Dharamjit Singh

....Petitioner.

VERSUS

Sudagar Singh and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Sanjeev Roy, Advocate for the petitioner.

SNEH PRASHAR, J.

The petitioner is aggrieved of the order dated 30.01.2017 passed by learned Civil Judge (Senior Division), Rupnagar dismissing the application filed by him under Order VI Rule 17 of the Code of Civil Procedure (for short, "CPC") for amendment in pleading.

The submissions made by Mr. Sanjeev Roy, learned counsel for the petitioner have been considered.

Learned counsel for the petitioner argued that though the petitioner had disclosed all facts to his counsel who represented him when the suit was instituted, but the counsel somehow did not incorporate true and complete facts in the pleadings. He did not mention that on the date fixed for execution of the sale deed i.e. 31.05.2007, the petitioner was not available as he had gone to Thailand on 28.05.2007 and had returned on

Paramjit Singh son of Chanan Singh to get the sale deed executed on the due date and it was his brother Paramjit Singh who was present with the requisite money in Ropar Tehsil on 31.05.2007. On account of non appearance of the defendants-respondents, the sale deed could not be executed. Learned counsel also submitted that at the time of execution of agreement of sale, possession of the suit property had been delivered to the petitioner by the respondents, but later they had trespassed over the suit property and had forcibly dispossessed him. The petitioner got two criminal cases registered against the respondents in which the respondents have been convicted and since the aforesaid facts arose subsequent to the institution of the suit, they had to be incorporated in the pleadings for proper adjudication of the case and the application for amendment filed by the petitioner was wrongly dismissed by learned trial Court.

There appears no merit in the argument of learned counsel for the petitioner. Firstly, the fact that the petitioner was out of country on the date fixed for execution and registration of the sale deed and in his place his brother was present in the Tehsil with the money as well as the fact that the respondents had delivered possession of the suit property to him and had lateron trespassed and dispossessed him illegally and forcibly and that he had got two criminal cases registered against the respondents with regard to his dispossession, were very much in knowledge of the petitioner and no justifiable reason has been explained for not incorporating them in his pleadings when the suit was instituted by him. He cannot shift the blame on his counsel because the pleadings were signed and verified by him. The proposed amendment would introduce altogether new facts contrary to the

pleaded that on the stipulated date for getting the sale deed executed and registered, he had gone to the Office of the Registrar with the balance sale consideration amount and had got his affidavit attested from the Executive Magistrate showing his presence in the said office.

Secondly, it transpires from the impugned order that after learned trial Court had framed issues on rival contentions of the parties and had fixed the case for evidence of the petitioner-plaintiff, as many as 30 opportunities had been availed by the petitioner for adducing his evidence after which he had filed the instant application for amendment in the pleadings. After commencement of the trial and after having availed such huge number of opportunities for adducing his evidence, the application filed by the petitioner for amendment in the pleadings with an intention to change the stand taken by him earlier could not be accepted as bonafide and the application was rightly dismissed by learned trial Court.

Thus, finding no illegality or perversity in the order of learned trial Court warranting intervention by this Court, the petition is dismissed.

(SNEH PRASHAR)
JUDGE

13.02.2017.
jitender sharma

Whether speaking/ reasoned : **Yes/ No**

Whether Reportable : **Yes/ No**