

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR 100-2016 (O&M)

Date of decision: 22.05.2018

Kulwant Kaur and others

.....Petitioners

versus

Pawan Kumar and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Rishab Gupta, Advocate for the petitioners
Mr.M.S.Atwal, Advocate for the respondent no.1 & 3
Mr.Kartik Gupta, Advocate for respondent nos.2 and 4

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

Impugned in the present revision petition is the order dated 4.11.2015, passed by learned Civil Judge (Junior Division), Hoshiarpur, vide which, application filed by the plaintiff under Order VI Rule 17 CPC 1908 for amendment of the plaint was dismissed.

Heard.

It comes out that suit for permanent injunction was filed in the year 2006 for restraining the defendants from interfering in the peaceful possession of the plaintiff over the land measuring 1 kanal 7 marlas out of the land measuring 4 kanal 8 marlas bearing Khasra Nos.9//23/1(2-15), 24/1/4(1-13), the boundaries of which have been mentioned in the plaint as ABCD. Plaintiff also sought permanent injunction for directing the defendants to remove the construction during pendency of the suit.

Now, the case is stated to be fixed for rebuttal and arguments.

Three amendments are sought i.e. plaintiff wants to correct the khasra nos. mentioned as 24/1/4 to 24/1/1. She also wants to correct the area of the land from 1 kanal 7 marlas to 2 kanal 11 marlas. She also wants to pray in the alternative a decree for possession. The trial Court has taken a view that the suit is pending since the year 2006. Amendment filed at a belated stage. Accordingly, the application was dismissed.

I am of the view that so far as correction of khasra number is concerned, the same is of clerical nature and can be allowed as the plaintiff do not want to lead any fresh evidence in that regard. Therefore, khasra number is allowed to be corrected as 24/1/1 in place of 24/1/4.

So far as remaining two amendments are concerned, plaintiff wants to correct the area from 1 kanal to 7 marlas to 2 kanal 11 marlas. Dimensions of the said 1 kanal 7 marlas are given in the plaint. In the site plan also, same area was given. Therefore, it will change the basic nature of the case and the dimensions of the case property. Case is at the stage of rebuttal and arguments. Therefore, said amendment which will change the basic nature of the case, cannot be allowed. Secondly, as far as decree for possession is concerned, defendants had claimed in the written statement itself that they are in possession. Therefore, at this belated stage, prayer for passing decree for possession cannot allowed to be incorporated.

As such, revision is partly allowed and partly dismissed. Petitioner is allowed to correct khasra number to 24/1/1 in place of 24/1/4. However, remaining part of the impugned order is upheld.

22.05.2018*gk***(Kuldip Singh)
Judge**

Whether speaking/ reasoned:

Yes

Whether Reportable:

No