

**CR-1296-2015 (O&M)**

**201**

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

**CR-1296-2015 (O&M)**

**Date of decision : 04.12.2018**

Narain Singh

... Petitioner

Versus

Daya Ram (deceased) through LRs

... Respondent

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL**

Present: Mr. Amit Jain, Advocate  
for the petitioner.

Mr. Sanjay Vij, Advocate  
for the respondent.

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**AMIT RAWAL, J.**

The present revision petition is directed against the impugned order dated 10.11.2014 (Annexure P-4), whereby the application under Order 6 Rule 17 of CPC seeking amendment of the plaint, in a suit for declaration challenging the compromise and alternative relief of joint possession claiming 1/6<sup>th</sup> share, has been dismissed.

Learned counsel appearing on behalf of the petitioner-plaintiff submitted that in case the petitioner succeeds in setting aside the compromise, consequential relief would be of conferment of a joint possession, in such circumstances, partition was inevitable. In order to avoid the multiplicity of the litigation, the said amendment was sought, but the Court below has erroneously rejected the same, thus, there is gross illegality and perversity.

**CR-1296-2015 (O&M)**

Learned counsel appearing on behalf of the respondent-defendant submitted that in the absence of impleadment of other two co-sharers, the amendment sought at the belated stage, cannot be incorporated as it would tantamount to *de novo* trial. The present revision petition is pending since 2015, whereas the suit was filed in the year 2006.

I have heard learned counsel for the parties, appraised the paper book and it appears to be a adoption of delaying tactics to seek the amendment fully knowing the fact already in existence incorporated by way of amendment. It is a separate cause for the plaintiff, which could be raised, in case he succeeds in the present suit. Such a relief cannot be taken, in the absence of impleadment of other co-owners. In my view, it is an attempt to delay the adjudication of the suit as there was an interim order directing the trial Court not to pass the final order. The impugned order declining the amendment application cannot be faulted with as no explanation of expression "despite exercise of due diligence" has come forward.

Keeping in view the aforementioned facts, the present revision petition is dismissed with costs of ₹10,000/-.

**04.12.2018**  
Yogesh Sharma

**( AMIT RAWAL )**  
**JUDGE**

Whether speaking/reasoned    **Yes/ No**

Whether Reportable            **Yes/ No**