

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

113

CR No.1262 of 2017 (O&M)

Date of decision: 05.02.2018

Gurwinder Singh

..... Petitioner

Versus

Roor Singh and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Akhilesh Vyas, Advocate
for the petitioner.

ANIL KSHETARPAL, J. (ORAL)

Plaintiff-petitioner is in the revision petition against the order dismissing the application for amendment of the plaint so as to incorporate the relief of possession as the plaintiff asserts that he has been dispossessed from the land measuring one marla during the pendency of the suit.

Learned trial Court had dismissed the application on the ground that the trial has already started and the application was filed after one year and three months from the date of alleged dis-possession. Notice was issued in the revision petition, however, no one has put in appearance on behalf of the respondents.

I have heard learned counsel for the petitioner at length and with his able assistance gone through the documents filed.

The plaintiff had filed a suit for declaration claiming that he is owner in possession of the land details whereof were given in the plaint.

The plaintiff also prayed for decree for permanent injunction restraining the defendants from interfering into his peaceful possession. The suit was

contested. After framing of the issues, the plaintiff started leading his evidence. At that stage, the plaintiff-petitioner moved an application noticed above.

In the considered opinion of this Court, an additional relief is sought to be added without changing the pleadings and the evidence. Such amendment is only to avoid multiplicity of the suits and enable the Court to grant appropriate relief to which the plaintiff is entitled to. Such amendment, which is on account of development during the pendency of the suit, should not normally be declined.

Learned trial Court has heavily relied upon the fact that the application has been filed after a period of one year and three months from the date of alleged dis-possession. For relief of possession, limitation is normally 12 years. In the present case, the plaintiff has asserted that he has been dispossessed from one marla land during the pendency of the suit. Such being the position, the delay of one year and three months cannot be used to deny relief to the plaintiff.

In view thereof, the impugned order is set aside.

Revision petition is allowed.

05.02.2018

Dinesh Bansal

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No