

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

119

CR-2116-2018

Date of Decision:02.04.2018

Hardeep Singh**.....Petitioner****Versus****Rajinder Singh Kahlon and others****.....Respondents****CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.**

**Present: Mr. Vishal Yadav, Advocate,
for the petitioner.**

HARI PAL VERMA, J.(Oral)

Petitioner has filed the present revision petition under Article 227 of the Constitution of India for setting aside the order dated 24.01.2018 (Annexure P-5) passed by learned Civil Judge (Junior Division), Phagwara, whereby the application filed by the petitioner seeking amendment in the plaint, was dismissed.

Briefly stated, the petitioner-plaintiff has filed the suit for possession of residential house No.55, L.I.G., Ground Floor, Urban Estate, Phagwara, as detailed in the head-note. The averments made in para 3 of the plaint read as under:-

“That due to absence of the plaintiff from the suit property and taking the advantages of locked premises, the defts have taken the possession of the suit house illegally and unlawfully and without the consent of the plaintiff. On coming to know regarding illegal possession of the defts., the plaintiff approached to the defts and requested them to hand over the vacant possession of the suit house to him

immediately, but as the defts. are not law abiding citizens. In connivance with each other, they refused to hand over the vacant possession of the suit house. The defts. also claiming their ownership pertaining to the house on the basis of forged and fabricated documents which were executed by the deft. The said documents were not shown to the plaintiff, despite of the fact that plf. made several requests, to show him the documents on which basis they are in possession of the suit house. But, defts. refused to show the documents and handed over the vacant possession to the plaintiff. Feeling aggrieved the plf. also filed an application to Jalandhar Development Authority requesting him to get vacate the possession of the house from the defts. Photocopy of letter written by the said Authority, to the plaintiff, Dt. 13.7.2015 is enclosed herewith. It is also worthwhile to state here that the plaintiff have also filed the complaint to the police authority and other officers against the illegal acts of the defendants, but defts. failed to hand over the vacant possession of the suit house to the plf.”

Respondent No.5 has filed the written statement and after filing the written statement, plaintiff-petitioner has moved the application under Order 6 Rule 17 CPC, seeking amendment in the plaint and to add para 2-A to the following effect:-

“Amendments/Additions sought in the plaint by adducing/asserting New Para 2-A, after Para 2 of the Plaint, “That the plaintiff has handed over the keys of the suit property to the defendant No.1 in the year 2005, on the day of Dussehra & delivered the possession of the suit property to the defendant No.1, for the charity purpose, to keep & store langer-utensils, bed sheets, mattresses, mats etc., of Gurduwara Sahib, as the defendant No.1, was the President of the Gurduwara Sahib at that very point of

time, with the clear instructions & directions to hand over the same to the plaintiff as and when the plaintiff ask for the return of the same. The defendant No.1 has assured the plaintiff while receiving the keys of the suit property that the vacant possession of the suit property will be handed over to the plaintiff as and when the plaintiff demands so.”

I have heard the learned counsel for the petitioner and taking into consideration the averments so made in the paragraphs above, it is apparently clear that there is inconsistency in the stand of the plaintiff. Moreover, the amendment is not for substitution of the earlier stand in continuity of the averments made in the plaint. It can be said that the facts so narrated in the application filed under Order 6 Rule 17 CPC, to seek amendment in the plaint were already in the knowledge of the plaintiff.

Therefore, this Court finds that there is no illegality in the impugned order dated 24.01.2018 (Anneuxure P-5) passed by learned Civil Judge (Junior Division), Phagwara.

Dismissed.

April 02, 2018
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No