

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-4255-2016

Date of decision: 27.04.2018

YADWINDER SINGH

.... PETITIONER

VS

NIRBHAI SINGH &ORS

.... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. S.S.Salar, Advocate
for the petitioner.

Mr. Sherry K. Singla, Advocate
for respondent No.1.

Hari Pal Verma, J.(Oral)

The petitioner has filed the present revision petition under Article 227 of the Constitution of India for quashing the order dated 20.05.2016 (Annexure P-5) passed by learned Civil Judge, Jr. Division, Ludhiana whereby application filed by the petitioner/plaintiff under Order 6 Rule 17 seeking amendment in the plaint was dismissed.

Briefly stated, the plaintiff has filed a suit for possession by way of declaration that they are owners and in possession of the property as detailed in plaint and for permanent injunction restraining the defendant from interfering into their peaceful possession. The written statement to the said plaint was filed. Thereafter the plaintiff moved an application under Order 6 Rule 17 for amendment of the plaint to add other properties including agricultural land as detailed in the proposed plaint. The said application has been dismissed vide order dated 20.05.2016 by the learned

Civil Judge, Jr. Division, Ludhiana.

Learned counsel for the plaintiff submits that the amendment application has been filed immediately after the filing of the written statement, but before framing of issues. He further submits that even otherwise, the amendment sought for is not going to change the nature of the suit rather will adjudicate the dispute as regards the properties between the parties. It would avoid multiplicity of proceedings between the parties. The petitioner is ready to compensate the respondents-defendants for the inconvenience so caused, if any.

Learned counsel for the respondents has argued that there is no stay by this Court, the proceedings are going on and the case is at the stage of plaintiff's evidence. Even otherwise the amendment sought for changing the nature of the case is not permissible under law. He has relied upon the judgment rendered by Hon'ble Supreme Court in ***Shiv Gopal Sah @ Shiv Gopal Sahu vs. Sita Ram Saraugi and others, 2007(2) RCR (Civil) 679.***

I have heard learned counsel for the parties and perused the paper book.

There is no dispute that the plaintiff had filed the amendment application immediately after filing of the written statement by the respondents-defendants. Since this Court had not granted any interim stay rather permitted the trial Court to continue with the trial, the evidence of plaintiffs has started. Considering the fact that the amendment was sought at an initial stage when even issues were not framed, this Court finds that in case the amendment sought is declined, it will cause prejudice and hardship to the plaintiff.

Accordingly, the present petition is allowed and the impugned order is set aside. The amendment in the plaint is allowed only subject to payment of costs of Rs.15,000/- to be paid to the respondent-defendant.

27.04.2018
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(HARI PAL VERMA)
JUDGE

Whether speaking/non-speaking?	Yes/No
Whether reportable?	Yes/No