

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

Civil Revision No.5531 of 2016
Date of Decision: January 18, 2018

Sucha Singh

...Petitioner

Versus

Pardeep Kumar Vij

...Respondent

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

Present: Ms.Gurdeep Kaur Advocate for
Mr.Sandeep K. Sharma, Advocate,
for the petitioner.

Mr.H.R.Bhardwaj, Advocate,
for the respondent.

AMIT RAWAL, J. (Oral)

Petitioner-plaintiff is aggrieved of the impugned order, whereby the application for amendment of the plaint for giving correct dimensions as per the sale deed of 1978, has been dismissed.

Ms.Gurdeep Kaur Advocate for Mr.Sandeep K. Sharma, learned counsel for the petitioner submits that the suit for injunction was filed. The petitioner-plaintiff mentioned the boundaries of the property at pages 2 and 9 of the plaint according to the spot at the time of filing the suit. At the time of purchasing the property, the boundaries of the suit property were different, but with the passage of time, the boundaries changed. The pleas already taken by the plaintiff and some other amendment in the heading of the plaint, are to be incorporated by causing amendment in Para 2 of the plaint, which read thus:-

“2(A) That at the time of execution and registration of the sale deed, the suit property was bounded as under:-

East: Property of Gian Chand and street

West: Property of other owner

North: Plot and House of Surjit Kaur

South: Ved Parkash and remaining part of plot out of which the plot was sold to the plaintiff.

That this fact is clear from the certified copy of the sale deed which is Ex.D1 on the court file. As per copy of jamabandi for the year 2001-02, Surjit Kaur was the owner of the property comprised in Khasra No.866. That on the eastern side of the property of the plaintiff, there was a house of Jaswant Rai in which Gian Chand was a tenant. Jaswant Rai transferred the property vide Vasiqa No.140 dated 22.05.1978 to Tarsem Lal his son, who sold the same to Hari Krishan Vij. That on the western side, there was property of other owner known as Jatane Wale. That at the time of execution and registration of sale deed Ex.D1, in the northern side there was plot and house of Surjit Kaur. Surjit Kaur transferred the property in the name of Satnam Singh her son-in-law and Rajinder Kaur her daughter. Satnam Singh sold 0K-2M property to Gurpreet Singh son of Manjit Singh and 0K-2¼M to Smt.Surinder Kaur wife of Jagdev Singh alias Debi whereas the property shown as plot in the sale deed is under the possession of Ved Parkash. Ved Parkash transferred the property in favour of his son namely Ravi Kumar who sold the same to Sanjit Kumar and Pardep Kumar sons of Satpal and at the time of purchasing the property on the southern side there was property of Ved Parkash and remaining part of plot out of which the plot was sold to the plaintiff and at the time of filing the suit there was property of Amrit Lal.

4. That in the heading of the plaint at page no.2, on the southern side plot of defendant was wrongly typed/written instead of property of Amrit Lal and the plaintiff wants to substitute the words “property in possession of Amrit Lal”

with the words “plot of defendant”.

5. *That at page no.2 in the heading of plaint in the first line, after the words land measuring “0K-11½M is to be substituted/corrected with the words “land measuring 0K-11M”. Similar amendment is also sought in the prayer clause of the plaint.*

6. *That similarly, in the heading of the plaint at page no.2, second line from the bottom as well as in third line at page no.3, para no.4 at page no.4, para no.5 and 7 at page no.5, para no.8 at page no.6, para no.11 at page no.7, the word “rough” is to be deleted. Both the above said amendments are also sought in the prayer clause at page no.9 of the plaint.”*

She further submits that the aforementioned amendment would not take away any right of the respondent-defendant as it is clarificatory and elaborative in nature and is within the parameters of allowing the amendment of the plaint or written statement.

Mr.H.R.Bhardwaj, learned counsel for the respondent-defendant submits that the petitioner-plaintiff has no locus-standi to institute the suit owing to the accrual of the subsequent events as he had parted with the right and title in the property. The law with regard to the amendment of the plaint is most stringent. If the amendment is allowed, it would take away valuable right of the respondent-defendant as the correction is done in accordance with the defence taken in the written statement, much less in view of the pleadings of the plaint and, thus, urges this Court for dismissal of the revision petition.

I have heard the learned counsel for the parties, appraised the paper book and of the view that there is force and merit in the submissions of the learned counsel for the petitioner-plaintiff, particularly the fact that the amendment sought is clarificatory and elaborative in nature with a rider

that the petitioner-plaintiff will not lead any fresh evidence as the evidence, as per submission, to that effect had already been led. The trial Court did not notice the aforementioned fact, but dismissed the application on the premise that the aforementioned error and fact were within the knowledge of the petitioner-plaintiff. In my view, such a breach should not be taken as the law of amendment is to prevent miscarriage of justice and to advance justice.

In view of the reasons stated above, impugned order is set-aside and the amendment is allowed subject to payment of ₹5,000/- as costs. Revision petition is allowed.

January 18, 2018
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No