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

CR No. 5609 of 2018

Date of Decision: 28.08.2018

Akhtiar Singh

-Petitioner

Vs

Iktar Singh and another

-Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Om Pal Sharma, Advocate,
for the petitioner.

RAJ MOHAN SINGH, J. (ORAL)

1. It is true that amendment cannot be declined solely on the ground of delay but bonafide character of proposed amendment has to be seen.

2. A suit for mandatory injunction was filed on the basis of agreement to sell dated 15.12.1992. The said suit was sought to be converted into a suit for specific performance by way of moving an application dated 12.07.2017 under Order 6 Rule 17 read with Section 151 CPC. The suit for mandatory injunction was filed on 25.08.2012. The filing of application for amendment of plaint was even beyond the period of 03 years from the date of filing of the suit for mandatory injunction.

3. Even if constructive notice of availability of cause of action as on date of filing of suit for mandatory injunction is taken into consideration, the cause of action for filing suit for mandatory

injunction has become time barred. If this date is relatable to the date of execution of agreement to sell dated 15.12.1992, the plea of delay at the threshold of bonafide character of proposed amendment cannot be entertained.

4. There cannot be any dispute with regard to proposition of law that the proposed amendment should not be dis-allowed merely on the ground of filing of application at a belated stage, but at the same time, bonafide nature of the proposed amendment cannot be overlooked.

5. It is a settled principle of law that bonafide amendments should be allowed irrespective of delay in filing the application.

6. In the instant case, in respect of agreement to sell dated 15.12.1992, suit for mandatory injunction came to be filed only after 20 years of the date of execution of agreement to sell and the application for proposed amendment came to be filed after a period of 03 years from the date of filing of suit for mandatory injunction. The alleged bonafide nature of proposed amendment cannot be appreciated.

7. This revision petition is found to be totally devoid of merits and the same is accordingly, dismissed.

28.08.2018

Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No