

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

C.R.No.6442 of 2016

The Decent Neighbour Co-operative House Building Society Ltd Barewal

...Petitioner

Versus

Avtar Shah Singh

....Respondent

Date of Order: 13.12.2018

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

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

None for the respondent.

AMIT RAWAL, J (ORAL)

Present revision petition is directed against order dated 14.9.2016 passed by learned Civil Judge (Jr. Divn.), Ludhiana vide which application filed by the petitioner under Order 6 Rule 17 CPC for amendment of plaint thereby incorporating relief of possession has been dismissed.

Learned counsel for the petitioner submitted that initially the suit was filed for declaration challenging sale deed dated 20.7.1995 in favour of the defendant in respect of plot No.20 in the plaintiff Society but inadvertently, the relief of possession could not be sought. The suit is at initial stage and even evidence was not led. No fresh evidence in support of the amendment would be required to be led.

There is no representation on behalf of the respondents.

After hearing learned counsel for the petitioner and appraising the paper book, I find force and merit in the present petition, particularly

taking into account the fact that the relief of possession was inherent in the suit challenging the sale deed especially when the petitioner-plaintiff is not having conscious possession. Mere declaration would not help them in seeking the primary relief and it would lead into multiplicity of litigation.

In my opinion, the learned trial Court did not notice the aforesaid fact while declining the request, thus in my view, proposed amendment would be essential for effective adjudication of the controversy in hand. Accordingly, present petition is allowed and impugned order dated 14.9.2016 is set aside.

December 13, 2018
manoj

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable : Yes/No