

CR No.6160 of 2017

{1}

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

CR No.6160 of 2017

Date of decision:11.12.2018

Kuljit Kaur

... Petitioner

Vs.

Tarsem Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Satbir Rathore, Advocate
for the petitioner.

Mr. Bhanu Pratap Singh, Advocate
for the respondent.

AMIT RAWAL J. (Oral)

The present revision petition is directed against the impugned order dated 03.08.2017 (Annexure P-6), whereby, an application filed under Order 6 Rule 17 CPC for amendment of the plaint for incorporating the relief of possession being subsequent vendee, in a suit for permanent injunction against respondent-defendant, has been dismissed.

Mr. Satbir Rathore, learned counsel appearing on behalf of the petitioner-plaintiff submitted that during the pendency of the suit, plaintiff was dispossessed and, therefore, the amendment was sought as the suit was at the stage of plaintiff's evidence. No harm and prejudice would be caused to the respondent-defendant as it was a subsequent event.

Mr. Bhanu Pratap Singh, learned counsel appearing on behalf of the respondent-defendant opposed the aforementioned prayer by submitting that a separate cause of action arose, thus, the relief of possession cannot be incorporated in a suit for permanent injunction,

therefore, the order under challenge cannot be said to be suffering from infirmity.

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

The factum of dispossession is a subsequent event. It is yet to be established as to whether he has been dispossessed or not but the same is subject to the evidence. The Court below should not have rejected the plea as the amendment would not only prevent the multifariousness of the litigation but also help in adjudication of the lis in fair and legal manner, particularly when the suit is slated for plaintiff's evidence.

In view of above, the impugned order is not sustainable and the same is hereby set aside. Consequently, the revision petition stands allowed.

(AMIT RAWAL)
JUDGE

December 11, 2018
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No