

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

C.R. No.6522 of 2016

Date of Decision.06.03.2018

Santokh Singh (since deceased) through his LRs

.....Petitioner

Vs

Roop Singh and others

.....Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. H.S. Dhandi, Advocate
for the petitioner.

Mr. Sanjeev K. Virk, Advocate
for respondent No.1.

Mr. Ramneek Vasudeva, Advocate
for respondent No.4 to 6.

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AMIT RAWAL J.(ORAL)

The petitioner-defendant No.1, Santokh Singh (since deceased) represented through legal representatives approached this Court under Article 227 of the Constitution of India for setting aside the order dated 08.09.2016 (Annexure P-4) whereby the application filed under Order 6 Rule 17 CPC moved by the respondent No.1-plaintiff seeking amendment of the plaint has been allowed.

The civil suit in the aforementioned case claiming possession on account of specific performance of agreement to sell dated 23.01.2009 for sale of land measuring 3 kanals 11 marlas for a total consideration of ₹1.50 crores per acre was filed in the year 2010. When the suit was at the stage of trial i.e. for plaintiff's evidence, an application dated 25.05.2016 was filed on behalf of the respondent No.1-plaintiff under Order 6 Rule 17 CPC for amendment of the plaint by adding words "in alternative 4 kanal 7

application was contested by the petitioner herein on the premise that the plea of clarifying the facts was not correct one, as the plaintiff cannot be permitted to substitute new plea, for, it would result into changing the nature of the suit.

Mr. H.S. Dhandi, learned counsel appearing on behalf of the petitioners submitted that the aforementioned amendment was not permissible in the eyes of law, for, it tantamount to changing the nature of the suit because earlier the plaint contained 28 paras whereas the amended plaint contains 30 paras. Under the garb of provisions of Order 6 Rule 17 CPC, the plaintiff has given a different colour to the plaint, which is not permissible in the eyes of law. Therefore, the application was abuse of process of the Court. Alternative relief qua 4 kanals 7 ½ marlas could not have been granted as it was beyond the terms and conditions of the agreement to sell, thus, urges this Court for setting aside the order under challenge.

Mr. Sanjeev K. Virk, learned counsel appearing for respondent No.1 submitted that the amendment allowed by the trial Court is most innocuous as the land sought to be incorporated in the plaint is part and parcel of the agreement to sell, which was omitted due to inadvertence. It does not tantamount to changing the nature of the suit as the agreement to sell itself contain particulars of the land, thus, urges this Court for dismissal of the revision petition.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Dhandi on the premise that proposed amendment will not change the nature and cause of action of the suit, for, the amendment sought to be

incorporated i.e. alternative relief qua 4 kanals 7 ½ marlas of land is part and parcel of the agreement to sell. This fact has not been denied by Mr. Dhandi during the course of hearing. As regards the limitation, the said plea can always be looked into at the final stage even if no specific plea or objection had been taken in the written statement.

In view of the aforementioned, the finding arrived at by the trial Court in allowing the application does not call for interference nor can be said to be rendered without jurisdiction. No ground for interference is made out. The revision petition stands dismissed.

(AMIT RAWAL)
JUDGE

March 06, 2018
Pankaj*

Whether reasoned/speaking	Yes
Whether reportable	No