

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR 6380-2014 (O&M)

Date of decision: 08.03.2018

Varinder Kumar

.....Petitioner

versus

Neelam Salwan and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.V.K.Sandhir, Advocate for the petitioner
Mr.Sharad Mehra, Advocate for the respondents

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

Impugned in the present revision petition is the order dated 22.8.2014, passed by Civil Judge (Junior Division), Amritsar, vide which, application under Order VI Rule 17 read with Section 151 CPC 1908 filed by the plaintiff for amendment of the plaint was dismissed holding that the facts sought to be pleaded were within the knowledge of the plaintiff before commencement of the trial.

It comes out that the suit was filed in the year 2010. Present application for amendment was moved when the case was at the stage of recording of evidence of the plaintiff. Application for amendment shows that the plaintiff wants to incorporate details of 10 sale deeds. Pleadings are not sought to be changed nor the prayer clause is sought to be changed.

Learned counsel for the petitioner contends that due to clerical error and slips, the details of sale deeds could not be mentioned though in

the replication some sale deeds including the one mentioned in the amendment application was mentioned. It has been further contended that amendment will not change the nature of the case nor any pleadings are sought to be amended. Only details of the sale deeds are to be given. Admittedly, under the amended provisions, the facts which were within the knowledge of the parties, cannot be allowed to be pleaded when the trial has commenced. However, the nature of the amendment is also to be examined. The case has to be distinguished where the pleadings are sought to be amended and where details are sought to be inserted without changing the pleadings or changing the prayer. In this case, only details of the sale deeds are sought to be mentioned without making any other change.

In view of the peculiar facts and circumstances of this case, impugned order dated 22.8.2014, passed by Civil Judge (Junior Division), Amritsar is set aside, proposed amendment is allowed to mention details of the sale deeds subject to the costs of Rs.5,000/- payable to the defendants.

Petition is allowed accordingly.

08.03.2018
gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:	Yes
Whether Reportable:	No