

**221 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
CR No.7068 of 2015 (O&M)
Date of decision : January 19, 2018**

Jeet Singh

..... Petitioner

Versus

Gram Panchayat/Gram Sabha

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Dhirinder Chopra, Advocate for the petitioner.

Mr. V.K. Sandhir, Advocate for the respondent.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter 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 23.07.2015 (Annexure P-5) passed by learned Additional Civil Judge (Sr. Divn.), Rajpura, vide which the application of the plaintiff-petitioner filed under Order 6, rule 17 for amendment of the plaint was dismissed.

I have heard learned counsel for the parties and have also carefully gone through the case file.

A perusal of the file shows that the plaintiff-petitioner has filed a suit for permanent injunction against the Gram Panchyat/Gram Sabha for restraining them from encroaching his land bearing khasra No.182(8-1), 183 (6-10), 184(5-12), total 20 bighas, without getting the demarcation of the *pahi* (passage).

It is claimed in the application that during the pendency of the suit, defendant had encroached upon 8 biswas of land bearing khasra No.182(8-1) and 3-1/2 biswas of land out of land bearing khasra No.183 (6-10) as per the demarcation report dated 11.05.2012. The plaintiff-petitioner wants to add the relief of mandatory injunction, directing the defendant to

on the ground that the demarcation report is dated 11.05.2012. The issues in this case were framed on 22.02.2011. The plaintiff-petitioner was getting number of opportunities including last opportunity since 24.07.2014 but has not led any evidence and wants to linger on the matter by filing one or the other application. The present application was filed on 24.07.2014 i.e. after more than two years of filing of the demarcation report dated 11.05.2012. Therefore, the same was dismissed.

Learned counsel for the plaintiff-petitioner at the very outset contends that he does not want to lead any evidence on the said amendment and merely wants that said amendment to be incorporated in the plaint.

In this way, the apprehension put forth by the trial court has already been met with. The said encroachment though denied by the defendant, is alleged to have taken place during the pendency of the suit. The trial court is yet to decide the plea of the defendant that whether the encroachment took place during the pendency of the suit or it was done by PWD Department. However, the amendment cannot be refused on account of the said plea.

As such, the impugned order dated 23.07.2015 passed by learned Addl. Civil Judge (Sr. Divn.), Rajpura, is set aside and the amendment application for amendment of the plaint is allowed. However, he shall not have any right to lead evidence on the issues, which may be framed from the amended plaint.

As such, the present revision petition is allowed.

(KULDIP SINGH)
JUDGE

January 19, 2018

sarita

Whether speaking / reasoned: Yes Whether Reportable: No