

CR-7303-2014 (O&M)

202

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

CR-7303-2014 (O&M)

Date of decision : 18.12.2018

Nazar Singh and another

... Petitioners

Versus

Parsotam Ram and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Ms. Dhivya, Advocate for
Mr. A.P. Kaushal, Advocate
for the petitioners.

Mr. K.S. Chahal, Advocate
for respondent Nos.1 to 6.

AMIT RAWAL, J.

The present revision petition is directed against the impugned order, whereby the application for amendment of the plaint to incorporate the relief of mandatory injunction in a suit for permanent injunction being a subsequent event, has been dismissed.

Learned counsel for the petitioners submitted that the evidence in the suit, aforementioned, has not yet commenced. The amendment sought to be incorporated may not cause technical hitch or objection at the time of final decision and it does not amount to altering the nature of cause of action.

Learned counsel for the respondent Nos.1 to 6 supported the impugned order by saying that it is not a subsequent event, but was already there. The plaintiff has failed to bring the case within the parameters of

CR-7303-2014 (O&M)

expression of "due diligence", thus, urges this Court for dismissal of the present revision petition.

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

In the un-amended suit, the plaintiffs had sought simpliciter injunction against the defendants from forcible interference and dispossession in respect of land measuring 2 kanals 15 marlas i.e. 55/120th share, measuring 6 kanals comprised in Khewat No.492, Khatauni No.661, Khasra No.48//5/2/2-0, 7/2/4-0, situated in the revenue estate of Village Lohakhera, Tehsil and District Sangrur. However, by way of amendment, sought to incorporate the following relief:-

"B) Suit for Mandatory Injunction directing the defendants to remove alleged construction resembling a Mosque constructed by the defendants in the killa No.48//7/2 during the pendency of the suit and also to remove the water course constructed by the defendants in the mid of Khasra No.48//5/2 and also directing the defendants to restore the water course at its original place that too in the common butt of killa No.48//5/2 and 47//1/1."

The aforementioned event, as per the amendment sought in the head-note and prayer clause along with averments in the plaint, is a subsequent event and in the absence of such relief including assertion in Paras 6 (A), 9 and prayer clause, the suit could not have been proceeded. The amendment sought to be incorporated is most innocuous and it would help the Court in adjudication of the *lis*. However, the other party shall be at liberty to rebut the same.

Accordingly, the impugned order, under challenge, suffers from infirmity and perversity and the same is set aside and the application for

CR-7303-2014 (O&M)

amendment is allowed.

Resultantly, the revision petition is allowed.

18.12.2018
Yogesh Sharma

(AMIT RAWAL)
JUDGE

	✓
Whether speaking/reasoned	Yes/ No
	✓
Whether Reportable	Yes/ No