

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

C.R. No.8007 of 2017

Date of Decision.23.04.2018

Paras Ram

.....Petitioner

Vs

The State of Haryana and others

.....Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Jasbir Rattan, Advocate
for the petitioner.

Mr. HPS Bhinder, Advocate
for respondent No.6, 9, 18 and 27 to 29.

Mr. Rajbir Singh, AAG, Haryana.

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AMIT RAWAL J.(ORAL)

The petitioner-plaintiff is aggrieved of the impugned order whereby the application submitted for amendment of the plaint at the final stage of the suit has been dismissed.

Mr. Jasbir Rattan, learned counsel appearing on behalf of the petitioner submitted that the petitioner-Paras Ram and others instituted the suit for declaration that plaintiff No.1 being owner in possession to the extent of share in the land as described in the plaint whereas plaintiff No.2 and 3 to the extent of their shares. Due to typographical mistake in para 3-A of the plaint it has been mentioned that the partition of the land is with the consent of the co-sharers whereas it should have been mentioned that the partition of the land was “not” with the consent of the co-sharers of the land. Further in sub-para (iv) of para No.3-A, it has been mentioned inadvertently that the possession of Square No.36, Killa No.11(2-4) was given to the petitioner-plaintiff but in fact it was to be mentioned that

possession of Square No.36 Killa No.11(2-4) was wrongly given and various other errors were required to be corrected, which had been mentioned in para 2 of the revision petition and as well as in the application but the Court below has rejected the application.

He undertakes, on instructions from his client, that will not lead any fresh evidence.

Per contra, Mr. HPS Bhinder, learned counsel appearing on behalf of respondent No.6, 9, 18 and 27 to 29 submitted that this is second amendment as the amendment which has been sought by the petitioner-plaintiff as the previous amendment was allowed on 19.2.2016 by incorporating para 3-A. The petitioner-plaintiff had not been diligent in causing the amendment and the approach had been most tardy and negligent. It was the duty of the counsel to read the amendment application before filing, therefore, there is lack of exercise of due diligence which is one of the essential requirement for the purpose of claiming amendment under Order 6 Rule 17 CPC, thus, urges this Court for upholding the order under challenge.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is force and merit in the submissions of Mr. Jasbir Rattan. The amendment sought to be caused, in my view, is most innocuous and would not take away any right accrued in favour of the defendants as the parties have already led evidence. The amendment would help the Court to adjudicate upon the *lis* on the basis of the amended pleadings and the evidence both oral and documentary. The defendants would also be able to file amended written statement and raise all possible pleas available to them in law at the final stage. The Court below had

dismissed the application only on the premise that the application was lacking the expression “despite due diligence”. Mere technicalities should not come in the way of parties seeking relief for bringing the case within the expression “interest of justice”. In my view, amendment sought to be caused does not tantamount to defeating any right of the defendants in case it is allowed.

In view of the aforementioned, the order under challenge is set aside and the amendment application is allowed subject to costs of ₹10,000/- which shall be condition precedent as the amendment application was submitted at the final stage. If the costs is not paid, the order already passed shall stand restored. The revision petition is allowed in the above terms.

(AMIT RAWAL)
JUDGE

April 23, 2018
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No