

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

1. CR No.815 of 2017 (O&M)
Date of decision : 22.03.2018

Shiv Mandir Parbandhak Committee

...Petitioner

Versus

Murti Sant Shri Guru Ravi Dass Ji and others

...Respondents

2. CR No.1257 of 2017 (O&M)
Date of decision : 22.03.2018

Jai Singh and another

...Petitioners

Versus

Gurdial Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. J.S. Chahal, Advocate for the petitioners.
(in both the revision petitions)

Mr. Deepak Basatia, Advocate for respondent Nos.1 to 4
(In CR No.815 of 2017) and
for respondent Nos.1 to 6 (In CR No.1257 of 2017)

ANIL KSHETARPAL, J. (ORAL)

By this common order, Civil Revision Nos.815 and 1257 of
2017 shall stand disposed of as the counsel for the parties are agreed that the
issue to be decided is common.

The petitioners in both the revision petitions before this Court

are against the order passed by the learned trial Court dismissing the application filed under Order 6 Rule 17 CPC for permitting the amendment in the counter claim.

The plaintiffs-respondents filed a suit in which the petitioners-counter claimants filed the counter claim as per Order 8 Rule 6-A of the Code of Civil Procedure. During the pendency of the trial, the petitioners filed an application to amend the counter claim, so as to amend the prayer clause for claiming the possession of remaining land i.e. 2 kanals 5 marlas as the same has also been encroached upon by the plaintiffs during the pendency of the suit.

Learned trial Court while relying upon the provision of Order 8 Rule 6-A CPC, has dismissed the application on the ground that the counter claim is only restricted to the facts which are available to the defendants before filing the written statement. In the present case, the petitioners are asserting that the plaintiffs in the suit have encroached upon the land measuring 2 kanals 5 marlas which was the remaining land, during the pendency of the suit. Whereas, the learned counsel for the plaintiffs submits that there is no encroachment and the plaintiffs are in possession from very beginning.

Be that as it may. It is the duty of the Court to notice the subsequent events and mould the relief accordingly.

In view of the aforesaid, both the revision petitions are disposed of, with the observations that if the learned trial Court comes to a conclusion that the plaintiff has encroached upon some part of the suit land during the pendency of the suit, the Court would accordingly mould the

relief and would not deny the relief merely because application for amendment was dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

22.03.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No