

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.902 of 2018

Date of Decision: February 12, 2018

Sant Singh

...Petitioner

Versus

Mehal Singh

...Respondent

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr.Simranjeet Singh Sarwara, Advocate,
for the petitioner.

AMIT RAWAL, J. (Oral)

The present revision is directed against the order dated 6.1.2018 (Annexure P-6), whereby the application of the respondent-plaintiff moved under Order 6 Rule 17 CPC for amendment of the plaint in civil suit seeking specific performance of the agreement dated 9.8.2004 in respect of the disputed land, has been allowed.

Mr.Simranjeet Singh Sarwara, learned counsel representing the petitioner submits that the suit for specific performance of the agreement to sell was filed on 9.8.2016. The written statement on behalf of the petitioner-defendant is dated 1.3.2017 and thereafter replication was filed and issues were also framed in April, 2017. However, the respondent-plaintiff moved an application Annexure P-4 dated 9.10.2017 seeking amendment in Paras 2A and 3 and in the prayer clause after the words “earnest money” of the plaint on the premise that it was explanatory and clarificatory in nature, which has erroneously been allowed. It would tantamount to filling up the lacunae. The pleas sought to be amended by the respondent-plaintiff by way of amendment were already available with him. No explanation has come

on record for not complying with the expression “due diligence”, which has been incorporated in Order 6 Rule 17 CPC by amendment of 2002 as a valuable right had accrued to the petitioner-defendant. It would tantamount to filing of the fresh pleadings and no compensation in the shape of costs has been paid.

I have heard the learned counsel for the petitioner, appraised the paper book and of the view that there is no force and merit in the submissions of the learned counsel for the petitioner.

The amendment sought in Paragraphs 2A, 3 and prayer clause of the plaint, as extracted in the application Annexure P-4, in my view, is explanatory and clarificatory in nature as the pleadings, as per the provisions of Order 6 Rule 1 CPC, have to be concise, but the aforementioned facts are part of the pleadings, which enable the Court to decide the controversy, much less will be able to prove the same and the defendant by filing amended written statement would also be entitled to controvert/reflect by leading direct and cogent evidence and as well as during the evidence stage. It does not tantamount to take away the valuable right or beyond limitation.

For the reasons stated above, no ground for interference in the impugned order is made out. Resultantly, revision petition is dismissed.

However, the petitioner shall be at liberty to claim costs by moving an appropriate application before the trial Court.

February 12, 2018
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No