

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

**CR No. 9229 of 2018 (O&M)  
DECIDED ON: DECEMBER 17, 2018**

**ANIL AGGARWAL AND OTHERS**

**.....PETITIONERS**

**VERSUS**

**MANJIT KAUR & OTHERS**

**.....RESPONDENTS**

**CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.**

Present:     Mr. Aayush Gupta, Advocate  
                 for the petitioners.

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**AVNEESH JHINGAN, J (ORAL)**

The present civil revision petition has been filed being aggrieved of the order dated 01.09.2018 passed by learned Civil Judge (Jr. Division), Ludhiana (hereinafter referred to as 'learned trial Court') allowing the application filed by the respondent No.1-plaintiff under Order VI Rule 17 of the Code of Civil Procedure, 1908 (for short 'CPC') seeking amendment of the plaint.

The facts in brief are that respondent No.1-plaintiff filed a suit for permanent injunction restraining respondents No.2 and 3-defendants from dispossessing or otherwise interfering in any manner in the peaceful possession in the constructed house of property No.15, measuring 1007.2/3 sq. yards,

which is bounded as under:-

East: Road 101'-9"

West : Owner/neighbour 101'-9"

North: Neighbour Harjit Singh 89'-3"/Now Gali

South: Darshan Singh/Now Ravinder Pal Singh 89'-3".

Comprised in Khasra No. 213, 212, 214, Khata/Khatauni NO. 137/143, 165/176, 220/239, as per jamabandi for the year 2007-08, situated at village Threekey, hadbast No. 156, Tehsil and District Ludhiana, Abadi Rajguru Nagar Extension, Ludhiana.

During the pendency of the suit the petitioners filed an application under Order I Rule 10 of CPC. The said application was allowed and the petitioners were impleaded as a party to the suit. Alongwith the suit an application under Order XXXIX Rules 1 and 2 of CPC was also filed.

During the pendency of the suit an application under Order VI Rule 17 of CPC for amendment of the plaint was filed by respondent No.1/plaintiff. The said application was allowed vide order dated 01.09.2018. Aggrieved of the said order, the present revision petition has been filed.

Learned counsel for the petitioners states that the trial Court erred in allowing the application for amendment of plaint. He argues that respondent No.1/plaintiff had not approached the Court with clean hands. She was not the owner in possession of the property in dispute, as she had sold a part of the land in the year 1998, yet in the suit, it was pleaded that she is the owner in possession of land measuring 1007.2/3 sq. yards. It is, further, argued that she is not in possession of the street as has been claimed by her.

The contention raised by learned counsel for the petitioners lacks merit.

In the application seeking amendment of plaint filed by respondent No.1/plaintiff, it had been specifically stated that by mistake it was pleaded that she was owner in possession of plot measuring 1007.2/3 sq. yards whereas property measuring 500 sq. yards had already been sold vide two separate sale deeds in 1998. It was prayed that the application seeking amendment in plaint be allowed and the suit be treated for 507.2/3 sq. yards and the boundaries may be amended accordingly.

The trial Court allowed the said application, as the amendment sought was formal in nature and never changed the nature of the suit. Even, today, learned counsel for the petitioners was unable to substantiate that how the petitioners were prejudiced by the said amendment. By allowing the application for amendment, the issue as to whether the respondent No.1/plaintiff is in possession of rasta or part of rasta is not being effected. The purpose for allowing the amendment is to decide the real controversy. In the present case dispute is with regard to the land measuring 507.2/3 sq. yards only.

The provisions of amendment of plaint cannot be construed so strictly that even the mistake which does not prejudice the other side cannot be corrected at a later stage by an amendment.

The civil revision petition lacks merit, hence, dismissed.

DECEMBER 17, 2018  
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(AVNEESH JHINGAN)  
JUDGE

*Whether speaking/reasoned*      *Yes/No*  
*Whether reportable*              *Yes/No*