

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

**CR No.187 of 2019
Date of Decision : 17.07.2019**

Dalbara Singh

.....Petitioner

Versus

Gurmail Singh

.....Respondent

CORAM : HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present : Mr. Gurcharan Dass, Advocate
for the petitioner.

SUDIP AHLUWALIA, J. (ORAL)

This revision is directed against the order passed by learned Civil Judge (Junior Division), Nabha in CS No.10 of 2016 on 13.10.2018.

2. Vide the impugned order, the learned Court below had dismissed an application under Order 6 Rule 17 of CPC seeking amendment of his original written statement by the defendant/petitioner. The petitioner in the said application for amendment had sought to incorporate the following additional pleadings by way of addition to para 3 of the original written statement:-

“Because in the suit land the answering applicant-defendant in the suit land the answering applicant-defendant has already constructed residential house for his family about 15 years ago by spending a huge amount and much prior to the alleged agreement and the covered constructed area of the said residential house is 1725 Square feet. The answering applicant-defendant is residing

in the said residential house with his family. In addition to the said residential house the answering applicant-defendant have also constructed a cattle house shed and a store and room for storing fodder (Turri) etc. upon the suit land about 12 years ago much earlier to the alleged agreement. The covered area of this portion is 1360 Square feet. In between the residential house and the cattle house shed and store and room for storing fodder (Turri) etc. and there exists a Courtyard by which both the constructed portions are connected for ingress and outgress to both the portions. The cattle house shed is being used for tethering the cattle and the store is being used for storing wheat in which two big iron sheet drums, Oil Drum, Nanure and other daily use articles of the house. The total area of the constructed residential house and cattle house shed, store and room for storing fodder (Turri) etc. Court yard and back Court yard of both the portions comes to about 920 Square yards. In case the Hon'ble Court comes to the conclusion for the specific performance of the agreement then the answering applicant-defendant shall be in a hardship and shall an irreparable loss and injury.”

3. After having heard learned counsel for the petitioner, this Court finds no ground to interfere with the impugned order. This is so because even assuming that the petitioner had misplaced the original site map of his house or for that he is also an illiterate person as stressed by his learned counsel, it still remains undeniable that the cattle house shed and a store and the room for storing fodder in the disputed property, which he claims to have been using as such for more than 12 years, was always within his knowledge and therefore disclosure of the same could not have been dependent upon existence or non-existence of the original site map to prove the same.

For the aforesaid reasons, the revision petition is dismissed.

17.07.2019
rakesh

(SUDIP AHLUWALIA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No