

103+239

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

CR No. 3158 of 2018

Date of Decision: 03.05.2019

Ashok Kumar

-Petitioner

Vs

Manvinder Singh

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. M.S. Sachdev, Advocate,
for the petitioner.

Mr. Anoop Kumar, Advocate,
for the respondent.

RAJ MOHAN SINGH, J. (ORAL)

1. Petitioner has preferred this revision petition against the order dated 20.02.2018 passed by Additional District Judge, Jalandhar vide which an application under Order 6 Rule 17 CPC at appellate stage for amendment of written statement was dismissed.

2. Defendant-petitioner sought to amend the written statement on the ground that plaintiff-respondent filed a suit for declaration to the effect that plaintiff is owner of plot No.239 measuring 10 Marlas = 180 square feet on the basis of sale deed dated 02.01.2002 (Ex.P3). Defendant-petitioner has also purchased plot No.239-A (Ex.DW4/B) vide sale deed dated

20.04.2009 from one Naresh Kumar as attorney of Surinder Kumar Guglani. Surinder Kumar Guglani himself was attorney of Gurmukh Singh.

3. The proposed amendment was in the context of elaboration of fact with reference to names of previous vendors and vendees.

4. Learned counsel for the petitioner has submitted that infact the plaintiff had purchased plot No.239 vide sale deed dated 02.01.2002 having defined dimensions. Defendant-petitioner had also purchased plot No.239-A (Ex.DW4/B) vide sale deed dated 20.04.2009 with defined dimensions.

5. In both the aforesaid sale deeds, the road is in existence towards northern side and canal is in existence toward southern side of both the plots.

6. Infact, one Dhanpat Rai also purchased plot No.239 vide sale deed dated 24.12.2003 (Ex.DW2/B) with definite dimensions.

7. According to the petitioner, plot of Dhanpat Rai falls between the plot of the defendant and the plaintiff.

8. By incorporating the proposed amendment at appellate stage, learned counsel for the petitioner seeks to project that the necessary facts already pleaded in the written statement would be elaborated with reference to the names of

previous vendors and vendees.

9. The controversy would be decided to the hilt viz-a-viz any encroachment made in the adjoining property or not. Dhanpat Rai has not been arrayed as defendant in the suit. Petitioner has already pleaded the factum of his purchase of plot No.239-A in the original written statement.

10. Learned counsel for the petitioner confines his prayer only to the extent of incorporating the proposed amendment without leading any further evidence on the basis of such amendment.

11. The case is already fixed for arguments before the lower Appellate Court.

12. Learned counsel for the respondent has no objection to the aforesaid course in case the petitioner is not allowed to lead any further evidence and the lower Appellate Court is directed to decide the appeal either on the date fixed or after short interval thereafter, in accordance with law.

13. Disposed of.

03.05.2019
Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No