

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

216

CR-5027-2017 (O&M)

Date of Decision:22.02.2019

Rajwant Kaur and another

....Petitioners

Versus

Preet Pal Singh and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL**

Present: Mr. Parminder Singh, Advocate for the petitioners.

Mr. Rahul Deswal, Advocate for the respondents.

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**AMIT RAWAL, J. (Oral):-**

The present Revision Petition is directed against the impugned order dated 07.07.2017 (Annexure P-6), passed by the learned Civil Judge (Junior Division), Karnal, whereby, in a suit claiming for specific performance of agreement to sell dated 02.07.2001 filed by respondent No.1-Preet Pal Singh, an application for amendment of the written statement, has been dismissed.

Mr. Parminder Singh, counsel appearing on behalf of the petitioners submitted that petitioners-defendant Nos.5 & 6 are bonafide purchaser for valuable consideration having purchased the suit property from defendant No.1 vide sale deed dated 14.02.2013, whereas the suit was filed on 20.04.2013. In fact the sale deed was executed during the subsistence of the agreement but the document could not apply. In order to protect the

possession which was handed over as per the sale deed, petitioner had also filed civil suit for injunction but while filing the written statement, inadvertent errors have occurred which were required to be corrected. The Courts below has rejected the prayer by saying that it would change the entire nature of the suit.

Per contra, Mr. Rahul Deswal, counsel appearing on behalf of the respondent/plaintiff-Preet Pal Singh supported the impugned order and opposed the prayer of Mr. Parminder Singh, counsel for the petitioners, by stating that it is a direct admission where the petitioner has agreed for setting aside the sale deed. It cannot be taken on merit. Moreover, issue had already been framed and the amendment did not fall within the expression despite exercise of 'due diligence'.

I have heard learned counsel for the parties and perused the paper book.

From the perusal of copy of amended written statement placed on record as Annexure P-4, it appears that while drafting written statement, certain paragraphs of the written statement have been corrected and instead of placing the word defendant No.1, it has come as plaintiff. In my view, such amendment is most innocuous and would not take away valuable right of the plaintiff. In view of the fact that petitioner-defendant No.5 had already filed a plaint with correct particulars and pleadings, yardsticks regarding amendment of the plaint and the written statement are totally different. Since the application was moved at the stage when the petitioner defendant was leading evidence, in case the amendment is allowed, the plaintiff would have opportunity to cross examine the petitioners-defendant Nos.5 & 6 in terms of

the stand taken in the written statement as well as in terms of provisions of Section 148 of the Indian Evidence Act.

In view of the above, impugned order is set aside and application for amendment of written statement is allowed, subject to cost of Rs.5,000/-.

Petition is accordingly allowed.

22.02.2019  
anju rani

**(AMIT RAWAL)**  
**JUDGE**

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