

CR-6979-2016 (O&M)

201

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

CR-6979-2016 (O&M)

Date of decision : 05.04.2019

Vijay Chopra

... Petitioner

Versus

Rattan Chand (Deceased) through LR's and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Dinesh K. Chaudhary, Advocate
for the petitioner.

None for respondent No.1.

Mr. Namit Gautam, Advocate
for respondent No.2.

AMIT RAWAL, J. (ORAL)

The present revision petition is directed against the impugned order, whereby the application of the petitioner moved at the time of arguments, seeking amendment by incorporating the relief of possession, in a suit for specific performance of oral agreement to sell dated 24.03.2007, has been dismissed.

Learned counsel for the petitioner submitted that during the pendency of the suit, the respondents-defendants had taken the possession of half portion marked by letters ABCDEF in the site plan, in pursuance to the ejectment order of the Rent Controller, in the year 2014, therefore, cause of action accrued to seek the amendment. The said amendment is clarificatory as the petitioner does not want to lead any evidence, but only sought to

CR-6979-2016 (O&M)

avoid the technical objection, at the time of final stage.

Mr. Namit Gautam, learned counsel appearing on behalf of the respondents submitted that once the plaintiff/petitioner was aware of having taken the possession in the year 2014, no explanation has come forth in moving the application in 2016 i.e. after the delay of two years and that is a ground for dismissal of the same. The approach of the petitioner was, thus, cavalier and urges this Court for dismissal of the revision petition.

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

The facts, as noticed above, are not in dispute, much less, taking of the possession.

No doubt the lackadaisical approach of the petitioner is writ large, but in order to avoid the technical objection, particularly when the petitioner has undertaken not to lead fresh evidence, I am of the view that no harm and prejudice would be caused, subject to all the objections, which the defendants shall be at liberty to take. Accordingly, the impugned order, under challenge, is hereby set aside and the application seeking amendment is allowed, subject to payment of costs of ₹10,000/-.

In the aforesaid observations, the present revision petition stands allowed.

05.04.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**