

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

**C.R. No.6849 of 2017 (O&M)
Date of Decision.16.01.2019**

Sri Nath Sood

...Petitioner

Vs

Gian Kaur and others

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Prateek Pandit, Advocate
for the petitioner.

None for the respondents.

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AMIT RAWAL J. (ORAL)

The present revision petition has been preferred against the impugned order dated 30.05.2017 (Annexure P-1) whereby the application moved by the petitioner-plaintiff for amendment of the plaint has been dismissed.

The petitioner-plaintiff filed the suit for injunction seeking restrain against the defendants from forcible dispossession, however, during the pendency of the suit, sought to incorporate the relief of declaration by moving the application by incorporating paragraph 1-A. The suit is at the stage of plaintiff's evidence, therefore, the amendment sought to incorporated ought to have been allowed. No harm and prejudice would be caused to the defendants, as they would have opportunity to rebut the same in cross-examination or by filing amended written statement.

There is no representation on behalf of the respondents, despite service.

I have heard learned counsel for the petitioner and

appraised the paper book. Paragraph 1-A sought to be incorporated is reproduced as under:-

“1-A. The plaintiff being the President of the Sood Sabha has got authority to look after and maintain the suit property as well as to protect the rights of said Sood Sabha. Sood Sabha is the owner in possession of the suit property as fully detailed in the head note of the plaint and depicted in the site plan enclosed.”

Plaintiff has also requested to add the following lines in the end of existing para No.7 which is as under:-

“And the value of the suit for the purpose of court fee and the jurisdiction for the relief of permanent injunction is fixed at Rs.500/- upon which a court fee of Rs.50/- is payable, which is affixed.”

Following prayer is sought to be added at the end of the prayer clause in Para No.9.

“It is, therefore, prayed that a decree for declaration that Sood Sabha (Regd) is owner in possession of land measuring 2 kanal 5 marla, situated within the lal lakir of village Sheikhupur, Tehsil and District Kapurthala, as per bandobasat No.209 of 1934 BK as shown fdsa in the site plan enclosed and bounded as under:

East : Rasta

West: Wakf Board Property

North: Plot of Gagan Sood

South: Property of Wakf Board.

As shown in the site plan enclosed and the plaintiff being its President is duly authorized to file and pursue the cases on behalf of Sood Sabha (Regd) Scheikhupur, District Kapurthala and also has authority to look after and maintain the suit land as detailed above, being belongs to the Sood Sabha, may please be passed in

favour of the plaintiff and against the defendants with costs.”

The aforementioned amendment, in my view, does not amount to change nature and character of the suit or mutual destructive pleas but explanatory in nature. The trial Court did not notice aforementioned fact. The aforementioned amendment cannot be treated to be a sermon unless and until the plaintiff leads evidence in support of aforementioned pleadings, which can be rebutted by the defendants in cross-examination and by filing amended written statement.

In view of the aforementioned circumstances, the impugned order is set aside and the application for amendment of the plaint is allowed, subject to payment of costs of ₹5000/-, which shall be condition precedent. In case the costs imposed is not paid, the order under challenge shall stand restored.

The revision petition is allowed in the above terms.

(AMIT RAWAL)
JUDGE

January 16, 2019
Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No