

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

**C.R. No.7390 of 2015 (O&M)
Date of Decision.01.05.2019**

The Church of North India Trust Association

...Petitioner

Vs

Alvina and others

..Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Hemant Bassi, Advocate
for the petitioner.

Mr. Sanjiv Gupta, Advocate
for the respondents.

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AMIT RAWAL J. (ORAL)

The present revision petition is directed against the impugned order dated 6.10.2015 whereby application of the petitioner plaintiff for amendment of head note of the plaint as well as para 2 and 18 of the plaint while giving details of Khasra No.223, which was inadvertently omitted to be mentioned, has been dismissed.

Mr. Bassi, learned counsel appearing on behalf of the petitioner-plaintiff submitted that suit for possession of portion of the land shown as ABCD in the site plan comprised in Khasra Nos.291, 292, 293, 294, 295, 297, 298, 299, 300 and 302 on the basis of registered transfer deed 8.11.1994. However, inadvertently, khasra No.223 had not been mentioned in head note and paras 2 and 18 of the plaint. Both the Courts below dismissed the application on the ground that there was no compliance of expression “despite due diligence” and it tantamounts to filling up of the lacuna.

Per contra, Mr. Sanjiv Gupta, learned counsel appearing on behalf of the respondents submitted that categoric stand in the written

statement was that Khasra No.223 was in possession of the defendants and construction has been raised. In case such amendment is allowed, it would tantamount to taking away valuable right of defendants, which will seriously prejudice their defence, thus, this Court for dismissal of the revision petition with exemplary costs.

I have heard learned counsel for the parties, appraised the paper book and of the view that the amendment sought is most innocuous, which in my view, would not take away right of defendants, as stage of moving of the application was commencement of plaintiff's evidence. Khasra No.223 sought to be incorporated is on the basis of registered transfer deed dated 8.11.1994, which is already on record of the Court below. Defendants would have right to rebut the same and raise all possible pleas in accordance with law.

In view of such circumstances, the impugned order is hereby set aside and the application for amendment is allowed. Liberty is granted to the plaintiffs to file amended plaint, in case not already filed and if filed already, the same shall be taken on record. The defendants shall also have liberty to file the amended written statement and take all possible legal pleas/objections in accordance with law.

The revision petition is allowed, subject to payment of costs of ₹5000/- which shall be condition precedent. The interim order granted by this Court stands vacated. Parties are directed to appear before the trial Court for compliance of this order and for proceedings on 20.05.2019.

(AMIT RAWAL)
JUDGE

May 01, 2019
Pankaj*

Whether speaking/reasoned	Yes
Whether reportable	No