

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.8012 of 2016
Date of Decision: January 17, 2019

Baljeet Singh & others

...Petitioners

Versus

Mahabir & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Mani Ram Verma, Advocate,
for the petitioners.

Mr. Ajay Chaudhary, Advocate for
Mr. Suresh Kumar Karthik, Advocate,
for respondent Nos.3 to 6.

AMIT RAWAL, J. (Oral)

The present revision petition is directed against the order dated 03.11.2016, whereby the application for amendment of the plaint by incorporating the relief of possession in a suit for declaration at the stage when the defendants had closed their evidence, had been dismissed.

Mr. Mani Ram Verma, learned counsel for the petitioner-plaintiffs submitted that the plaintiffs had filed a suit for declaration and permanent injunction challenging the order dated 06.01.1967 of the Assistant Collector Ist Grade. However, there was a technical hitch in claiming possession and in this regard moved the application with an undertaking that no additional evidence would be led and once the undertaking has been given, the trial Court should have allowed the application and decided the case on merits as there is no alternative of the

cause of action. It is addition to the relief of declaration.

Mr. Ajay Chaudhary, learned counsel appearing on behalf of respondent Nos.3 to 6 supported the impugned order and opposed the aforementioned prayer by submitting that when the application was moved, the parties had already concluded their evidence. This fact was in the knowledge of the plaintiffs and despite exercise of due diligence, did not incorporate the relief and amendment sought to be incorporated was highly belated being barred by law of limitation.

I have heard the learned counsel for the parties, appraised the paper book and of the view that once the plaintiffs had already undertaken not to lead additional evidence, the relief of possession which was ancillary to the relief of declaration should have been allowed to be incorporated by giving opportunity to the defendants to file amended written statement and as well as led evidence, if necessary as it would help the court in adjudication of the lis, thus, the impugned order is fallacious.

For the reasons mentioned above, the impugned order is set-aside. Revision petition stands allowed with costs of ₹ 5000/-, which shall be a condition precedent.

January 17, 2019
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No