

CR-8326-2017 (O&M)

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

CR-8326-2017 (O&M)

Date of decision : 11.02.2019

Gurbax Singh

... Petitioner

Versus

Rajwinder Singh @ Sabhi and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Avtar Singh Bhatti, Advocate
for the petitioner.

Mr. Sunil Agnihotri, Advocate
for respondent Nos.1 and 2.

AMIT RAWAL, J. (ORAL)

The present revision petition is directed against the impugned order, whereby in a suit for permanent injunction restraining the defendants from forcible interference and dispossession, an application for amendment by incorporating the relief of possession, at the initial stage, has been declined.

Mr. A.S. Bhatti, learned counsel appearing on behalf of the petitioner submitted that the continuation of the suit without amendment would have been a farcical exercise as the purpose of injunction, after dispossession has been frustrated. The Court below did not appreciate the aforementioned fact, thus, there is gross illegality and perversity.

Mr. Sunil Agnihotri, learned counsel for respondent Nos.1 and 2/defendants submitted that the possession was already with the defendants.

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The plaintiff did not intentionally incorporate the relief, thus, in such circumstances, the amendment was belated and could not have been incorporated. At the best, the petitioner should have withdrawn the suit.

I have heard learned counsel for the parties, appraised the paper book and of the view that the factum of causing amendment by incorporating the relief of possession, in a suit for injunction, is not controverted. There is a categoric averment in the application of having been dispossessed and in my view, in the absence of relief of possession, which is sought to be incorporated by way of amendment, the continuation of the suit, would have been a futile exercise and it would help the Court below for the adjudication of the *lis* and prevent the multiplicity of the litigation.

Keeping in view the aforementioned facts, the impugned order, under challenge suffers from illegality and perversity and the same is hereby set aside. The application for amendment is allowed.

Resultantly, the present revision petition stands allowed.

11.02.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**