

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.1476 of 2019
Date of Decision: March 05, 2019

Devinder Kumar Binda & another

...Petitioners

Versus

Keshav Garg

...Respondent

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Vishal Aggarwal, Advocate,
for the petitioners.

AMIT RAWAL, J. (Oral)

The present revision petition, at the instance of the petitioner-defendants, is directed against the impugned order dated 23.01.2019, whereby the application moved by the respondent-plaintiff for amendment of the plaint in a suit for permanent injunction seeking restraint against the petitioner-defendants from forcible dispossession and interference, has been allowed.

Mr. Vishal Aggarwal, learned counsel for the petitioner-defendants submitted that the dispossession was already there and, therefore, the respondent caused the plea of amendment by converting the suit into possession as the possession of the plaintiff was denied in the written statement. It was categorically averred in Para 3 of the plaint that the plaintiff was given symbolic possession and, therefore, it was a symbolic possession. The aforementioned amendment would, attract the provisions of Order 2 Rule 2 CPC and, thus, all these factors have not been taken into

consideration and, therefore, the impugned order suffers from illegality and perversity.

I have heard the learned counsel for the petitioner-defendants, appraised the paper book and of the view that there is no force and merit in the submissions of the learned counsel, for, it is a question of evidence. It is to be seen at the final stage whether the possession was with the plaintiff before filing of the suit or was dispossessed during the pendency. The defendants will have a right to press for framing of the fresh issue, if need be, but the amendment as allowed by the trial Court cannot be said to be taking away the valuable right of the petitioners or would attract the provisions of Order 2 Rule 2 CPC. The petitioner-defendants would also be at liberty to rebut the pleadings in accordance with law and lead evidence by taking all possible objections which can be decided at the final stage.

For the reasons mentioned above, no ground for interference in the impugned order is made out. Resultantly, the revision petition is dismissed.

March 05, 2019
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No