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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.4486 of 2019

Date of Decision: 19.07.2019

Navjot Singh and another

..... Petitioners

Versus

Raj Kumari Gulati

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Jagram Singh Cooner, Advocate,
for the petitioners.

SUDIP AHLUWALIA, J. (ORAL)

The present revisional petition is directed against the impugned order dated 27.05.2019 (Annexure P-1), passed by the Ld. Civil Judge (Junior Division), Dera Bassi.

2. The Ld. Court below had allowed an application under Order 6 Rule 17 of the CPC (Annexure P-6), filed on behalf of the respondent/plaintiff in the original Suit, by which he had sought to add Para No.2(a) in the original Plaint by asserting that “*during pendency of the Suit, construction had been raised on the disputed property since 16.06.2016 by the petitioner/defendant, which was liable to be removed*”. Consequently, he also wanted to modify the original Plaint by way of incorporating the new date of cause of action arising w.e.f. 16.06.2018 and also the re-evaluation of the Suit in view of the nature of relief claimed. The

petitioner/defendant appears to have failed to file his Reply to the application, inspite of having obtained as many as 11 opportunities for that purpose.

3. His grievance before this Court is that in his original written statement itself, he had asserted that all the constructions on the disputed land had already been raised by him much before the filing of the Suit.

4. Be that as it may, by way of incorporation of the additional averments in the Plaint with such amendment, only factual issues are being raised. The burden of proof certainly lies upon the respondent/plaintiff to prove that the disputed constructions were raised by the petitioner/defendant after filing of the Suit, and that matter can be decided only after taking evidence of both sides.

5. *Per se* there is no illegality or impropriety in the impugned order as to warrant interference by this Court, since in any case the petitioner/defendant has also been compensated with costs and granted liberty to file an additional written statement to the amended Plaint.

6. Dismissed.

19.07.2019

Apurva

**(SUDIP AHLUWALIA)
JUDGE**

1. Whether speaking/ reasoned : Yes/ No

2. Whether reportable : Yes/ No