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

**Civil Revision No.5142 of 2019 (O&M)
Date of Decision: 28.08.2019**

Pavitar Singh

.....Petitioner

Vs

Tarsem Singh and another

....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Naveen Batra, Advocate
for the petitioner.

RAJ MOHAN SINGH, J.

[1]. Petitioner through his attorney has preferred this revision petition against the order dated 05.07.2019 passed by the Civil Judge (Jr. Divn.) Hoshiarpur vide which the application under Order 6 Rule 17 CPC for amendment of the plaint was dismissed.

[2]. Plaintiff filed a suit for declaration, mandatory injunction and permanent injunction. Prayer for possession of the land measuring 4 Kanals was also made. The application under Order 6 Rule 17 CPC moved by the plaintiff on the premise that the plaintiff came to know that he inadvertently omitted to seek relief of mandatory injunction against the defendant No.1 qua

his other land. That relief was sought to be inserted by way of amendment in the plaint.

[3]. Perusal of the record would show that the plaintiff has filed the suit for declaration to the effect that he is owner in possession of the land measuring 4 Kanals out of land bearing khasra No.46//14, 46//15, 46//16 and 46//25/1 on the strength of sale deed dated 09.05.2007. Mutation was also sanctioned on the basis of aforesaid sale deed, but the date of sanctioning the mutation has not come forth on record.

[4]. Plaintiff pleaded that mutation No.2902 was sanctioned in the name of the plaintiff only in respect of 131/1574 share and not for 80/516 share. The plaintiff had purchased 4 Kanals of land and only 2 Kanals 3 Marlas of property was mutated in his name. There was a stipulation in the agreement that in case of any dispute regarding sale of the property the defendant No.1 would be liable to execute the sale deed of the remaining land from his other property. On that premise the mandatory injunction is sought seeking to incorporate relief of mandatory injunction for execution of sale deed *qua* the remaining land from other land of defendant No.1.

[5]. Evidently, the mutation No.2902 was sanctioned after execution of sale deed dated 09.05.2007. By this time, the relief of mandatory injunction based on aforesaid mutation has

become time barred. PW-1 and PW-2 have already been partly examined. Even the limitation for three years for filing suit for specific performance has expired. Once the limitation starts running, it cannot be stopped. Amendment in the pleadings in respect of a cause of action which is barred by limitation cannot be permitted. The cause of action on the basis of sale deed dated 09.05.2007 was very much in the knowledge of the plaintiff. Having omitted to claim required relief within limitation, the plaintiff cannot introduce the amendment which is time barred amendment at this stage.

[6]. In view of aforesaid, the impugned order passed by the trial Court is not found to be suffered with any error of jurisdiction or perversity. This revision petition is found to be devoid of merits and is accordingly dismissed.

August 28, 2019

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No