

CR No.7278 of 2019
DATE OF DECISION:18.11.2019

Lakhvir Singh and another

...Petitioners/plaintiffs.

Vs.

Kartar Singh and another

...Respondents/defendants.

CORAM:- HON'BLE MR.JUSTICE LALIT BATRA

Present: Mr. R. S. Dhillon, Advocate
for the petitioners/plaintiffs.

LALIT BATRA, J. (Oral)

This civil revision petition has been moved by petitioners/plaintiffs impugning the legality of order dated 03.10.2019 (Annexure P-8), rendered by trial Court, in terms of which, application under Order VI Rule 17 read with Section 151 CPC for amendment of written statement moved by respondents/defendants, has been allowed.

2. Briefly stated, plaintiffs have filed suit for possession of land measuring 5.10 marlas comprised in Khewat No.331/310, 315/295 Khatoni Nos.697 and 680, Khasra No.17//14 min west (2.66 marlas) and Khasra No.17//13/2/3/2 (2.44 marlas) situated in the revenue estate of village Aalike, Tehsil Phul, District Bathinda. Plaintiffs are relying upon demarcation report dated 31.10.2013 to substantiate their stand qua above said land. On the other hand, defendants in their written statement have categorically denied the claim of plaintiffs and took the stand that latter are not entitled to get possession of any land from defendants. As per version of defendants, during the pendency of instant suit, they had

moved an application before Tehsildar, Rampura Phul, for getting the suit land demarcated and then said land was demarcated, vide demarcation report dated 29.06.2017. In terms of application dated 25.09.2019 moved by defendants for amendment of written statement for incorporating factum of demarcation report dated 29.06.2017, thus, vide impugned order dated 03.10.2019, above said application has been allowed by the trial Court.

3. I have heard learned counsel for the petitioners/plaintiffs and have carefully gone through the record of the case.

4. Before proceeding further, it would be appropriate to go through relevant provisions of Order VI Rule 17 CPC, which reads as under:-

“Amendment of pleadings.- The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties.

Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.”

5. A bare perusal of record of the case reveals that vide impugned

order dated 03.10.2019 (Annexure P-8), application for amendment of written statement moved at the instance of respondents/defendants, has been allowed. It is pertinent to mention here that petitioners/plaintiffs are relying upon demarcation report dated 31.10.2013 to claim their possession over the suit land, whereas respondents/defendants have taken the stand that after having got demarcated the suit land, vide demarcation report dated 29.06.2017 and especially the fact that above said development has taken place during the pendency of instant suit, incorporation of said fact in their written statement has become necessitated. It would be worthwhile to mention here that by incorporating factum of demarcation report dated 29.06.2017, in the written statement by the respondents/defendants, no prejudice is likely to be caused to the opposite party. Opposite party will have full opportunity of meeting the cause of respondents/defendants, as amended. Moreover, proposed amendment of written statement may be necessary for the purpose of determining the real questions in controversy between the parties. Even otherwise ingredient of “due diligence” is in concurrence to the cause of respondents/defendants as after having got demarcated the suit land during the pendency of instant suit, vide demarcation report dated 29.06.2017, this application for amendment of written statement, was moved by the respondents/defendants. In this scenario, claim of respondents/defendants seeking amendment of written statement falls within four corners of provisions of Order VI Rule 17 CPC.

6. As a sequel to above said discussion, instant civil revision petition moved by petitioners/plaintiffs impugning the legality of order dated 03.10.2019 (Annexure P-8) being devoid of merits, is dismissed.

7. Disposed of.

(LALIT BATRA)
JUDGE

18.11.2019
rimpal

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No