

S.No.124

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

CR No.213 of 2020 (O&M)

Date of Decision:13.01.2020

Jagpal Singh alias Jaspal Singh and others

.....Petitioners

Vs.

Sucha Singh and others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Sanjeev Kumar, Advocate for the petitioners.

Rajbir Sehrawat, J.(Oral)

The present revision petition has been filed under Article 227 of the Constitution of India for setting aside the impugned order dated 29.10.2019 passed by Civil Judge (Senior Division), Bathinda, whereby application filed by the respondent under Order 6 Rule 17 of CPC read with Section 151 CPC has been allowed.

A perusal of the paper book shows that the plaintiff/ respondent had filed a suit for specific performance of an agreement to sell. However, the defendant/ petitioner had taken a plea that he had already cancelled the alleged agreement and a notice to that effect was given. Therefore, by way of application moved under Order 6 Rule 17 CPC, the plaintiff had sought amendment of the plaint; to include the relief of setting aside the alleged notice of cancellation issued by the petitioner/ defendant. The said application has been allowed by the trial Court.

Learned counsel for the petitioner has submitted that the application for amendment has been moved by the plaintiff at much belated stage. The plaintiff having obtained several opportunities but not concluding his evidence, the defendant had even moved an application for closure of the evidence of the plaintiff. In such a situation and conduct of

the plaintiff, the applications for amendment of the plaint should not have been allowed by the trial Court.

Having heard the counsel for the petitioners, and perused the case file, this Court does not find any substance in the argument of learned counsel for the petitioners. The suit originally filed is for seeking possession by way of specific performance. By way of the amendment; which has been allowed by the Court below, the plaintiff has sought only to mould the relief clause so as to facilitate the original prayer in the relief clause. Only the relief of setting aside of the alleged cancellation notice, has been added by way of the amendment. Therefore, the nature of the suit is not altered in any manner.

So far as the stage of the suit is concerned, without prejudice to any other remedy, which the defendant may be entitled to avail to expedite the suit before the trial Court, the delay in seeking amendment or the stage of the suit; at the time of the amendment is sought, cannot be the sole determining factor for consideration of the application for amendment of the pleading. Hence, the Court below has not committed any illegality or irregularity in allowing the application for amendment moved by the plaintiff.

In view of the above, finding no merit in the petition, the same is dismissed.

January 13, 2020
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(RAJBIR SEHRAWAT)
JUDGE

Whether Speaking/reasoned
Whether Reportable

Yes/No
Yes/No