

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

**CR-8104-2019(O&M)
Date of decision: 14.01.2020**

Kawal Singh

.....Petitioner

Versus

Parkash Chand and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.Nitish Bhatia, Advocate for
Mr. R.K.Bhatia, Advocate for the petitioner

ANIL KSHETARPAL, J. (ORAL)

Challenge is to the correctness of order passed under Order 6 Rule 17 CPC declining permission to amend the plaint. Plaintiff claims that during the pendency of the suit, defendant no. 2 to 8 have forcibly encroached upon the suit property on 20.5.2018 and he wants to amend the plaint to incorporate the relief of possession and consequential pleadings.

Learned Trial Court has held that prima facie plaintiff has not placed on file, demarcation report enabling the Court to even come to a prima facie conclusion that some part of the suit land has been encroached upon by the defendants during the pendency of the suit. The Court also noticed that statement of two witnesses on behalf of plaintiff has already been examined. Therefore, the Trial Court dismissed the application.

This Court has heard learned counsel for the petitioner and is of the considered view that the present petition can be conveniently

disposed of by issuing direction to the Court to proceed with the suit and ultimately if the Court comes to a conclusion that the plaintiff was dispossessed during the pendency of the suit, the Court shall mould the relief as provided in CPC.

Learned counsel for the plaintiff-petitioner submits that he shall not be permitted to lead evidence in support thereof in absence of pleadings.

This Court has considered the submission and finds merit therein. The plaintiff in order to prove his case is at liberty to lead evidence. There is no reason for the trial Court to decline opportunity to lead evidence with regard to events which have taken place, if any, during the pendency of the suit to the plaintiff.

In view of the aforesaid observations, present revision petition is disposed of.

14.01.2020

rekha

Whether speaking/reasoned

Whether Reportable

(ANIL KSHETARPAL)**JUDGE**

Yes / No

Yes / No