

Sr. No.111

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

=====
In Virtual Court
=====

CR No.278 of 2021

Date of decision : 15.02.2021

Pargat Singh

.....Petitioner

Vs.

Mandeep Singh and Another

.....Respondents

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Manoj Yadav, Advocate for the petitioner.

Rajbir Sehrawat, J. (Oral)

This revision petition is filed under Article 227 of the Constitution of India praying for setting aside the impugned order dated 14.01.2021 (Annexure P4) passed by Addl. Civil Judge (Senior Division) Payal, District Ludhiana whereby the application under Order 6 Rule 17 read with Section 151 CPC, filed by the petitioners/plaintiffs seeking amendment of plaint, has been declined.

It is submitted by the counsel for the petitioner that the application moved by the petitioner before the trial Court under Order 6 Rule 17 CPC has wrongly been declined by the Court. The suit is at the initial stage only and even the issues have not been framed. Moreover, by amendment, the petitioner intends only to add the khasra numbers of the land, which is already the subject matter of the suit. Hence, the amendment would not even change the nature of the suit as such.

Notice of motion.

Mr. Nitin Jain, Advocate, accepts notice on behalf of respondent No.1.

It is submitted by the counsel for the respondent No.1 that the petitioner is seeking to amend the suit only to take undue advantage of the interim order passed by the trial Court. The petitioner has already mentioned specific khasra number in his plaint. Even the site plan has been attached with the plaint. Therefore, there is no dispute regarding the identity of the suit property as such; as per the existing pleadings. Now the petitioner intends to, unnecessarily involve the house of respondent No.1 into the proceedings of the suit so that the interim order passed by the trial Court could, ipso facto, get extended to the house of the respondent No.1 as well. Otherwise, the house of the respondent No.1 is situated in a different khasra number than the one which the petitioner originally involved in his plaint.

Having heard the counsel for the parties and perused the record, this Court finds that the suit filed by the petitioner is at the initial stage. The object of the proceedings of the civil suit is to do complete justice by granting due opportunity to the plaintiff and to the defendant to present their respective cases. Therefore, it would not be in the interest of justice to deny the amendment to the petitioner at this initial stage. The respondent No.1, who is otherwise already a defendant in the suit, can be granted an opportunity to rebut the case of the petitioner after amendment; and at the same time; he can be protected against the interim order already passed by the trial Court; by not extending the same to the newly added khasra number/house of the respondent No.1.

Accordingly, the present petition is allowed. The impugned order is quashed. The trial Court is directed to permit the amendment of the plaint, as prayed for by the petitioner and to take the amended pleadings on record. Thereafter, the respondent No.1 shall be granted an opportunity to file his amended written statement to controvert the assertions made by the petitioner. However, the interim order, which has already been passed by the trial Court; shall remain restricted in its operation to the property which was the subject matter of the unamended plaint and it shall not extend to the house of the respondent No.1 in any manner, till the decision of the suit by the trial Court.

(RAJBIR SEHRAWAT)

JUDGE

15.02.2021

VY

Whether Speaking/Reasoned : Yes/No

Whether Reportable : Yes/No