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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-7316-2018 (O&M)

Date of Decision:12.10.2022

RANDHIR SINGH AND ANOTHER

.. Petitioners

Vs.

CHARAN SINGH AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Raman Mohinder Sharma, Advocate for the petitioners.

None for the respondents.

....

Manoj Bajaj, J. (Oral)

Petitioners are aggrieved against the order dated 06.08.2018 (Annexure P-6), whereby their application under Order VI Rule 17 CPC seeking amendment of the plaint has been rejected by the Civil Judge (Jr. Divn.), Patiala.

Learned counsel for the petitioners has argued that the petitioners brought a suit for permanent injunction and the suit property was described by giving surroundings and the site plan of the suit property was also appended with the plaint, which is on record as Annexure P-2. He submits that the site plan relied upon by the plaintiffs contains the correct surroundings of the suit property, but inadvertently the sequence of those surroundings is incorrectly mentioned in the head note of the plaint (Annexure P-1). He further submits that the nature of amendment sought to be incorporated in the plaint is just and necessary and would not at all alter the cause of action and the nature of the suit, but the Court has failed to appreciate the same while dismissing the application. He submits that in

case, the amendment is allowed, no prejudice would be caused to the other side, as the trial is yet to commence.

Notice of motion in the petition was issued on 20.11.2018 and Mr. L.M. Gulati, Advocate appeared on behalf of the respondents (defendants) on 16.01.2020.

Today, no one has appeared on behalf of the respondents.

After hearing the learned counsel and considering the above background, this Court finds that the proposed amendment is sought to be incorporated in the head note of the plaint only and that too relating to the surroundings of property in question as mentioned in the site plan as well as in the plaint are same, but the variance is only in respect of their directions. The correct directions according to the plaintiffs as contained in the site plan are as under:

“East: Road side 70 ft.

West: Land of Babu Ram side 55 ft.

North: Street side 65'6"

South: Land of Late Ami Chand side 80'6"

The above surroundings in the head note are mentioned differently, which reads as under:

“East: Land of late Ami Chand, side 80'6”

West: Street side 65' & 6”

North: Land of Babu Ram, side 55' & 15'

South: Road 24 ft, wide, side 70'. ”s

The comparison of the above makes it clear that the amendment is kind of re-arranging the surroundings, and the suit property would not be changed, and since the trial is yet to commence, as no witness on behalf of

the plaintiff has been examined, therefore, the suit being at the initial stage, the amendment can be permitted. A perusal of the impugned order reveals that the defendants have disputed the boundaries as contained in the original plaint and the proposed amendment would also meet with the objection as raised by the defendants also.

Consequently, the impugned order dated 06.08.2018 (Annexure P-6) is set aside and the application filed by the plaintiffs under Order VI Rule 17 CPC is allowed.

Revision petition allowed.

12.10.2022
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No