

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

CR-1074-2019 (O&M)

Date of decision: 19.09.2022

Gurudwara Shri Guru Har Ria Sahib Parchar Committee

...Petitioner

Versus

Sh.Dhian Chand and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Shoaib Khan, Advocate for the petitioner

Ms.Sonia G Singh, Advocate for the respondents

ANIL KSHETARPAL, J (Oral)

The suit filed by the plaintiff was dismissed by the trial court. His first appeal is pending. During the pendency of the appeal, an application filed by the plaintiff, for permission to amend the plaint, in order to incorporate the relief of mandatory injunction, has been dismissed. The plaintiff claims that he has been dispossessed during the pendency of the suit and the defendants have raised construction. Hence, he wants to add the relief of mandatory injunction in the plaint.

The amendment of the plaint at this stage would result in a de novo trial. Learned counsel representing the petitioner submits that the evidence to that effect has already been led.

Keeping in view the aforesaid facts, the revision petition can be disposed of, by directing the Appellate Court to decide the appeal. If the court comes to a conclusion that the plaintiff was dispossessed during the pendency of the suit, it shall mould the relief irrespective of the fact that a relief of mandatory injunction has not been

prayed for.

All the pending miscellaneous applications, if any, are also
disposed of.

19.09.2022
rekha

(ANIL KSHETARPAL)
JUDGE

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