

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

286

CR-1261-2020

Decided on : 31.03.2022

Sukhdev Singh

... Petitioner(s)

Versus

Sukhmander Singh and another

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

PRESENT: Mr. M.S. Virk, Advocate
for the petitioner(s).

Mr. Pushp Jain, Advocate
for the respondent(s).

MANJARI NEHRU KAUL, J. (Oral)

The instant revision petition under Article 227 of the Constitution of India, for setting aside the order dated 14.01.2020 (Annexure P-5), vide which the learned Additional Civil Judge (Sr. Divn.), Sardulgarh, dismissed an application under Order 6 Rule 17 CPC, filed by the petitioner/plaintiff for amendment of the plaint.

Learned counsel submits that the petitioner had filed a civil suit for recovery of a total sum of Rs. 17,44,000/- (Rs. 16,00,000/- as principal + Rs. 1,44,000/- as interest). The petitioner paid Rs. 16,00,000/- as earnest money while executing the agreement to sell dated 17th October, 2016 to the respondents/defendants. However, the respondents/defendants failed to execute the sale-deed in favour of the petitioner/plaintiff, despite his repeated requests and even refused to refund the amount of earnest money, which had been given to him.

Learned counsel further submits that though the petitioner was

which agreement to sell had been executed at the time, however, while drafting the plaint, in the suit for recovery, inadvertently, the said fact was left out. He further submitted that since the respondents/defendants were not owners of the land in question, a suit for specific performance of the agreement to sell would not be maintainable, therefore, this amendment was necessary to enable the petitioner to plead the correct facts to enable the Court to determine the real issues between the parties.

Per contra, learned counsel for the respondents/defendants while opposing the submissions made by the learned counsel for the petitioner, has urged that the amendment has been sought at a highly belated stage and since it lacked any *bona-fide* reasons, it deserved to be dismissed. He submitted that the proposed amendment would change the entire complexion of the civil suit.

I have heard learned counsel for the parties and perused the relevant material on record.

It would be relevant to observe here that the merits of the proposed amendment in either the plaint or in the written statement cannot be gone into while deciding an application under Order 6 Rule 17 CPC. No doubt, the trial in the present case has commenced, however, this Court is of the opinion that the proposed amendment would help in determining the real issues between the parties and enable the Court to arrive at a just decision. Moreover, learned counsel for the respondents has not been able to satisfy this Court as to how the proposed amendment would, in any manner, cause any prejudice to his case. Needless to add, the respondents would get an opportunity to file his written statement to the amended plaint and also lead evidence to prove his case.

As a sequel to the above, the instant revision petition is allowed, which however, shall be subject to payment of costs in the sum of Rs.10,000/- to the respondents/defendants, which shall be a condition precedent.

(MANJARI NEHRU KAUL)
JUDGE

March 31, 2022

J.Ram

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*