

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

CR-2368-2019 (O&M)

Date of decision: 18.08.2022

Joginder Singh and others

....Petitioners

Versus

Gursewak Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. B.K.Saini, Advocate for the petitioners

Mr. N.K.Manchanda, Advocate for the respondents

ANIL KSHETARPAL, J (Oral)

The petitioners are the plaintiffs in a suit for grant of decree of permanent injunction restraining the defendants from interfering in their peaceful possession. When the suit was at a preliminary stage, they filed an application for permission to amend the prayer in order to incorporate further relief i.e restrain the defendants from removing the barbed wires and cement battens installed at the boundary of the suit property. The trial court dismissed the application.

Heard learned counsel representing the parties at length and with their able assistance perused the paperbook. Learned counsel representing the petitioners contends that the suit is at the preliminary stage and the amendment sought is only formal in nature.

Per contra, learned counsel representing the respondents (defendants) submits that the plaintiff is trying to create evidence by seeking amendment.

In fact, the trial court has failed to appreciate the entire situation. The plaintiffs are only seeking permission to amend the

prayer. The prayer sought to be incorporated by way of amendment is off-shoot/derivative of the prayer made in the unamended plaint. In other words, the additional prayer is stemming out of controversy already subject matter of adjudication before the court.

Once the suit is at preliminary stage, the trial court should have been more magnanimous in such matters. Hence, the order under challenge is set aside.

The revision petition stands allowed.

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

18.08.2022

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE