

126 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-4061-2022
Decided on:-09.11.2022

Rajinder KumarPetitioner

VS.

Madan Lal and othersRespondents.

CORAM:HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Amit Arora, Advocate,
for the petitioner.

HARKESH MANUJA J. (Oral)

By way of present revision petition challenge has been made to an order dated 30.08.2022 (Annexure P-6) passed by learned Additional Civil Judge (Senior Division), Khadur Sahib, District Tarn Taran, whereby an application filed at the instance of the respondents-plaintiffs under Order 6 Rule 17 CPC with a prayer for seeking amendment of plaint, has been allowed.

The facts of the case are that the respondents-plaintiffs filed a suit for possession by way of redemption of mortgage of shop measuring 16 ft. X 18 ft. with the boundaries mentioned in para 1 of the plaint. The suit was filed on 09.08.2017. Thereafter, the petitioner-defendant filed his written statement on 19.02.2018, stating that the respondents-plaintiffs had two shops each measuring 8 ft. X 18 ft. and these two shops jointly had 16 feet of front. Thereafter, issues were framed on 16.04.2018 and the matter

was adjourned for recording of the evidence of respondents-plaintiffs. At this stage, the respondents-plaintiffs moved an application dated 26.10.2020 with a prayer for seeking amendment of plaint as regards the measurement and dimensions of the suit property; instead of mentioning the front of 16 ft., an amendment was sought for describing the front of the shop to be as 8 ft. and its width to be 13.4 feet with a slight change in its boundaries.

The petitioner-defendant filed his objections to the application moved by the respondents-plaintiffs. The trial court vide impugned order dated 30.08.2022 has allowed the application filed at the instance of the respondents-plaintiffs. It is the said order, which has been impugned by way of the present revision petition.

It has been contended on behalf of the petitioner that in case the amendment sought for is allowed, the same is going to change the entire cause of action in the suit. It has been further submitted that the application has been filed after framing of the issues and is thus, highly belated.

Learned counsel for the petitioner has also placed reliance upon the judgment of this Court passed in case titled as “Ram Chand and another vs. Hari Parkash and others”, 2017 (2) PLR 426.

I have heard learned counsel for the petitioner and gone through the record.

Perusal of the paper book reveals that the amendment sought for is merely regarding the measurement and correct description of the property in dispute. In fact, there is no change in cause of action as the nature of the suit still remains the same being for possession based on redemption of mortgage of shop in question. The suit is still at the initial stage i.e. for recording of the evidence of the respondents-plaintiffs. The

amendment sought for in fact would help the court to decide the substantial rights of the parties more effectively.

I have also gone through the case law cited by learned counsel for the petitioner but with due respect, the same would not apply to the facts and circumstances of the present case, as in the present case, the evidence is yet to start whereas in the case relied upon by the petitioner, the evidence had already started and the witnesses already stood examined and cross-examined on the aspect of dimensions and the description of the suit property.

More than that, even if, at this stage, the amendment sought for is declined, the respondents-plaintiffs can always file a fresh suit giving the correct description and measurement of the suit property. As such, even in order to avoid multiplicity of proceedings, amendment sought for is required to be allowed.

In view of the reasoning recorded herein above, I do not find any illegality in the order dated 30.08.2022 passed by the learned trial court in allowing the prayer made by the respondents-plaintiff seeking amendment of plaint and therefore, the same does not require any interference. Accordingly, the present petition is dismissed.

(HARKESH MANUJA)
JUDGE

09.11.2022
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/ No