

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 7640 of 2019

Date of Decision: 30.03.2022

Gurpreet Singh and Others

... Petitioner(s)

Versus

Nishan Singh and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Ashish Gupta, Advocate
for the petitioner(s).

Mr. Inderjit Singh Brar, Advocate
for the respondent.

Anil Kshetarpal, J.

1.. This revision petition has been filed by the defendants. Nishan Singh filed a suit for grant of decree of permanent injunction restraining the defendants from making/constructing a brick-lined passage from point BCD, shown in the rough site plan attached with the plaint. An application, filed by the plaintiff under Order XXXIX Rule 1 and 2 CPC, was partly allowed and the parties were directed to maintain *status quo*.

2. When the case was at the fag end, the plaintiff filed an application for permission to amend the plaint by incorporating the relief of mandatory injunction. It was alleged that during the pendency of the suit, the plaintiff has been dispossessed and the defendants have encroached upon the passage and brick-lined the same. The defendants claim that the passage has been brick-lined by the Gram Panchayat. The trial Court has allowed the

amendment.

3. The plaintiff is asserting a subsequent event, which is alleged to have taken place during the pendency of the suit. It is well settled that the Courts must make sincere endeavors for expeditious disposal of the suits. Rather than allowing the amendment, the Court was well within its jurisdiction to dispose of the application while observing that in case the Court ultimately finds that the plaintiff has been dispossessed during the pendency of the suit, the Court will mould the relief.

4. Allowing an application for amendment, at the fag end of the trial, results in *de novo* trial, which should be avoided.

5. Keeping in view the aforesaid facts, the revision petition is disposed of with a direction that if the trial Court ultimately comes to a conclusion that the defendants have, during the pendency of the suit, dispossessed the plaintiff from the property in question, the Court will mould the relief and grant suitable decree to restore the possession as it existed on the date of final decision of the suit.

(Anil Kshetarpal)
Judge

March 30, 2022

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No