

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

**CR-5157 of 2016(O&M)
Date of Decision: 14.07.2023**

Zorawar Singh

...Petitioner

Versus

Arshdeep Singh & Ors.

...Respondents

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. Varun Sharma, Advocate
For the petitioner.**

**Mr. Keshav Partap Singh, Advocate and
Mr. Vishal Pal Singh, Advocate
For respondent No.2.**

**Mr. Mohit, Advocate for
Mr. Bhupinder Ghai, Advocate
For respondent No.5.**

KARAMJIT SINGH, J.

1. The instant civil revision has been filed against the order dated 20.07.2016 (Annexure P-7) whereby an application filed by the petitioner/ plaintiff for amendment of the plaint in order to seek alternative relief for recovery of Rs.51,00,000/- from the defendants, has been dismissed.

2. The brief facts of the case are that petitioner/ plaintiff filed suit for declaration to the effect that he is owner in possession of Flat No. F-133, situated at Spangle Condos, Gazipur (Zirakpur), District SAS Nagar, on 27.03.2012. Thereafter, petitioner/ plaintiff got amended the plaint with further prayer for declaration that sale deed dated 31.05.2012 executed and registered by defendant No.3 in favour of defendant No.2 and sale deed dated 08.10.2012 executed and registered by defendant No.2 in favour of

Dalip Kaur are illegal, null and void. The suit has been contested by the defendants who filed written statements and thereafter issues were framed and the suit is pending for the last more than 10 years and during pendency of the suit the petitioner/ plaintiff filed an application in 2016 to claim alternative relief for recovery of Rs.51,00,000/- which was paid by him for purchase of flat No. F-133 along with interest.

3. The counsel for the petitioner while assailing the impugned order submits that the proposed amendment is necessary for the just decision of the suit and if allowed is going to avoid the multiplicity of litigation between the parties and further the said amendment is not going to prejudice the respondents in any manner.

4. I have considered the submissions made by counsel for the petitioner.

5. There is no dispute that the civil suit was filed by the petitioner/ plaintiff on 27.03.2012 and in the year 2016 when the suit was fixed for remaining evidence of the plaintiff, the application for amendment of the plaint was moved by the petitioner/ plaintiff as has been detailed above. The said application was contested by the opposite party and finally dismissed vide impugned order dated 20.07.2016. Admittedly, petitioner/ plaintiff was fully aware of the total amount which was given by him to defendants at the time of purchase of flat in question. It is admitted case of the plaintiff that the said payment was made by him in the year 2011 before filing of the suit. So, it cannot be said that the relief sought by way of amendment of the plaint was not pleaded in the original plaint due to inadvertence or oversight. Further, it appears that the amendment which the petitioner/ plaintiff is seeking is clearly time barred being sought after expiry of three years of the

date on which the disputed amount was paid to defendants by the petitioner/
plaintiff.

6. The Hon'ble Supreme Court in **Life Insurance Corporation Vs. Sanjeev Builders Pvt. Ltd. 2022 SCC Online SC1128** has held that amendment relating to time barred claim is not permissible.

7. In the instant case as the relief sought to be claimed by way of amendment by the petitioner/ plaintiff is beyond limitation, such a prayer is to be rejected in the light of ratio laid down on Sanjeev Builder's case (supra.)

8. In light of the above, the learned trial Court rightly dismissed the application moved by the petitioner/ plaintiff under Order 6 Rule 17 CPC for amendment of the plaint. Consequently, the present petition is hereby dismissed.

14.07.2023
Jiten

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No