

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

CR No.5331 of 2016 (O&M)

Date of Order: 24.08.2023

Vipin Oberoi

.Petitioner

Versus

Aman Dev and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

**Present: Mr. Arihant Jain, Advocate,
for the petitioner.**

**Mr. Arnav Sood, Advocate,
for respondent No.3, 4, 5, 7, 8 and 13.**

ANIL KSHETARPAL, J

1. Through this revision petition, the interlocutory order passed by the trial court while dismissing the application of the petitioner to permit him to amend the written statement has been dismissed.
2. This Bench has heard the learned counsels representing the parties at length and with their able assistance perused the paper book.
3. The plaintiff filed a suit in the year 2012 for partition of urban property consisting of shops and a residential accommodation. The property was identified by the description of the properties on all the four directions and a lay out plan.
4. The defendant contested the suit by filing elaborate written statement.
5. When the case was at the advance stage, an application under Order 6 Rule 17 CPC for permission to amend the written statement was filed which, as noticed above, has already been dismissed.
6. The learned counsel representing the petitioner contends that

the amendment sought would not change the nature of the suit and it is explanatory in nature. Moreover, the Court of first instance has recorded a finding which was not necessary and the revenue record supports the case which the defendant proposes to incorporate in the pleadings.

7. The defendant has already been contesting the suit while opposing the plaintiff's prayer for the partition of the property. As per Order 6 Rule 2 CPC, the evidence is not required to be incorporated in the pleadings which are required to be confined to the facts, in brief. Hence, the explanatory amendments cannot be allowed.

8. As regards the observations of the Court of first instance while deciding the application, the same cannot be construed as final expression on the merits of the case and those observations have only been confined to the decision on the application.

9. As regards the argument that the revenue record supports the case of the petitioner, the same can always be produced in evidence as contended by the learned counsel representing the respondent.

10. Keeping in view the aforesaid facts, no ground to interfere is made out.

11. Dismissed.

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

August 24, 2023

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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

:YES/NO
:YES/NO