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

CR-6046-2017 (O&M)

Date of Decision: 13.04.2023

Dalbir Singh

...Petitioner

Versus

Smt. Mukesh

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Sumit Sangwan, Advocate
for the petitioner.

Mr. Harish Bhardwaj, Advocate
for the respondent.

ARUN MONGA, J. (ORAL)

Petition herein is for setting aside order dated 09.08.2017 (Annexure P-4) passed by Ld. Civil Judge (Jr. Division), Sonipat, whereby an application for amendment of the plaint and impleading Smt. Ishwanti wife of Ram Kumar as party, was dismissed.

2. Succinct facts first, as pleaded in the instant petition.

2.1. Petitioner filed a suit for permanent injunction against the respondent/defendant restraining her from alienating the suit land in any form as she had agreed with the petitioner to sell the suit land vide agreement to sell dated 26.08.2013. During pendency of the above said suit, petitioner filed an application for amendment of pleadings in the suit to the effect that permanent injunction suit be converted into suit for specific performance and one Ishwanti be impleaded as party because the defendant-respondent had sold the part of suit land to her. However, vide impugned order the Ld. trial Court dismissed the application of petitioner/plaintiff.

3. Learned counsel for petitioner argues that Ld. trial Court failed to appreciate the fact that trial of the case is yet to start as only the issues have been framed. He relies upon a catena of judgments of this Court including *Vinita Chaudhary vs. M/s Real Gold Builders and another*, 2019(3) Law Herald 2443; *Satya vs. Babita Sharma*, 2015(8) R.C.R. (Civil) 699; *Sarabjit Kaur vs. Joginder Singh Bamra and others*, 2016(2)PLR 720 and *Parvinder Singh @ Pinda and others vs. Didar Singh*, 2018 (3) PLR 699 to contend that law of procedure is meant to advance justice and not to create obstacles for advancement of justice. Therefore, proposed amendment sought is for the purpose of determining the real questions in controversy and learned trial Court ought to have allowed prayer for amendment.

4. Learned counsel for respondent opposes the prayer made by learned counsel for petitioner and submits that proposed amendment will change the nature of suit which is not permissible under law.

5. Having heard learned counsel for parties and gone through the record, I am of the view that concededly petitioner/plaintiff got the knowledge of sale of suit property vide sale deed dated 15.01.2014 only when written statement was filed by respondent, wherein it was pleaded that at the time of filing of the suit by plaintiff, the property had already been sold. Confronted with the situation, it is natural that the development having come to his knowledge subsequently, he would obviously seek amendment of his plaint to seek relief of specific performance to which, at the time of filing of the suit, he had refrained to do thinking that defendant would perform his part of the agreement.

6. In view thereof, I see no reason why the amendment be not allowed as the denial of the same would severely jeopardize and prejudice the case of the plaintiff to seek relief of specific performance subsequently.

7. Consequently, the revision petition is allowed. Impugned order is set aside. Amendment of plaint stands allowed accordingly.
8. Pending civil miscellaneous application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

April 13, 2023
ashish

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