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

CR-3079-2022

Date of Decision: 19.09.2023

MUKHTIAR SINGH**.....PETITIONER****VERSUS****BALWINDER SINGH****.....RESPONDENT****CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR**

Present: Mr. Mohan Singla, Advocate with
Ms. Meenu Singla, Advocate
for the petitioner.

Mr. Amit Kumar Jain, Advocate
for the respondent.

NAMIT KUMAR, J (ORAL)

The instant revision petition has been preferred by the petitioner/defendant for setting aside the impugned order dated 13.07.2022 passed by Additional Civil Judge (Senior Division), Tohana whereby the application dated 06.12.2021 filed by the plaintiff-respondent under Order 6 Rule 17 of CPC (Annexure P-4) for amendment of plaint has been allowed.

While issuing notice of motion on 04.08.2022, the following contention of the counsel for the petitioner was noticed:-

“Learned counsel for the petitioner submits that in original suit, which was instituted on 17.12.2019, the prayer was for grant of a decree of possession, mandatory and permanent injunction regarding a plot measuring 0K-10M, comprising in Khewat No.362, which was purchased by the plaintiff, as per sale deed dated 10.02.2014. It is further prayed that the defendant had taken

unauthorized possession of the aforesaid property, therefore, a decree of possession be passed in favour of the plaintiff. It is further submitted that the respondent-plaintiff moved an application under Order 6 Rule 17 CPC for amendment of the plaint on the ground that during pendency of the suit, he purchased remaining ½ share of the land measuring 1K-0M comprising in Khasra No.769/8(1-0) vide sale deed dated 22.04.2021 and as per demarcation done by the revenue authorities, the defendant is found in illegal possession, therefore, the plaint be allowed to be amended.

It is further submitted that the petitioner-defendant contested the said application on the ground that since it is own case of the plaintiff that after one and half year of filing of the suit, he purchased another property, it gives a separate cause of action and same cannot be clubbed with the present suit by allowing amendment.

Learned counsel has referred to the original plaint (Annexure P-1) as well as amended plaint (Annexure P-7), to submit that even otherwise, amendment was only to grant relief with regard to khasra No.769/8 (1-0), however, the entire plaint from para No.1 till end has been changed.

A comparison of both the plaints shows that arguments raised by learned counsel for the petitioner are correct, as entire pleadings from para No.1 till end stand changed on the basis of subsequent cause of action, which is not permissible.

Learned counsel has argued that the trial Court has already taken on record the amended plaint, which is part of the record.

On the face of it, amended plaint is not in consonance with the impugned order and the trial Court has not looked into this aspect of the matter, while taking amended plaint on record.”

Learned counsel for the respondent-plaintiff could not justify the passing of the impugned order and submits that he may be permitted to withdraw the suit with liberty to file a fresh one on the same cause of action with better particulars.

In view of the above, the impugned order dated 13.07.2022 passed by Additional Civil Judge Senior Division, Tohana is set aside and present petition is disposed of accordingly.

Parties are directed to appear before the trial Court on 09.10.2023.

(NAMIT KUMAR)
JUDGE

19.09.2023
Kusum

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>