

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

298

CM-13427-CII-2021 in/&
CR-2485-2021 (O&M)
Date of Decision :24.05.2023

Sapna Thamman

...Petitioner

Versus

Deepika Garg and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Namit Gautam, Advocate for the petitioner.

Mr. Gagandeep Singh Virk, Advocate for the respondents.

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Harsimran Singh Sethi, J. (Oral)

Present revision petition has been filed challenging order dated dated 24.09.2021 (Annexure P/7) passed by the Civil Judge, (Junior Division), Ludhiana by which, an application filed by the petitioner-plaintiff under Order 6 Rule 17 of the CPC for amendment of the plaint has been dismissed.

Learned counsel for the petitioner-plaintiff argues that while filing the unamended plaint in the suit for specific performance, it was mentioned that possession of the property in question is with the petitioner-plaintiff but after the filing of the suit, the possession was taken away by the respondents-defendants, hence the said fact needs to be incorporated in the suit by way of amendment, which prayer has been declined by the trial

Court.

Learned counsel for the respondents-defendants on the other hand submits that the said amendment was sought only after the written statement was filed by the respondents-defendants stating that possession of the property in question was with them since long hence, amendment sought is only to delay the proceedings especially, when at this stage, the prosecution evidence is about to conclude and if the said amendment is allowed then the petitioner-plaintiff will also pray for framing of additional issue so as to lead further evidence in support of the same.

Learned counsel for the petitioner-plaintiff submits that the petitioner-plaintiff will not pray for any additional issue to be framed and she will lead her evidence on the issues already framed and only prayer is for the amendment of the plaint so as to incorporate the fact that possession of the property in question has been taken from her after filing of the suit.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

It may be noticed that the only fact which is sought to be incorporated in the plaint is that subsequent to the filing of the suit, possession of the suit land was forcibly taken away from the petitioner-plaintiff. All the facts which came into existence after filing of the suit needs to be brought before the Court so as to appreciate the same in order to arrive at proper conclusion. That being so, the trial Court should have allowed the said amendment especially, when the petitioner-plaintiff is not praying for any additional issue to be framed so as to delay the proceedings any further.

Keeping in view the above, amendment which is being sought by the petitioner-plaintiff is allowed. Amended plaint is taken on record. The

CR-2485-2021 (O&M) -3- . 2023:PHHC:076125

respondents-defendants are given due opportunity to rebut the amended
plaint in case they want to do so. It is made clear that evidence will only be
led on the issues already framed.

Present revision petition is allowed in above terms.

CM-13427-CII-2021

Application is also disposed of.

May 24, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

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