

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.270

Case No. : C.R. No. 3552 of 2022

Date of Decision : August 01, 2023

Inder Singh Petitioner
vs.
Harjit Kaur Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Mr. B. B. S. Randhawa, Advocate
for the petitioner.

None for the respondent.

* * *

GURBIR SINGH, J. :

1. Challenge in this revision petition filed under Article 227 of the Constitution of India is to order dated 06.02.2020 (Annexure P-4), passed by learned Civil Judge (Junior Division), Batala (hereinafter referred to as – the Trial Court), whereby application under Order 6 Rule 17 CPC, moved by the plaintiff-petitioner for amendment of plaint, has been dismissed.
2. Learned counsel for the petitioner has submitted that the petitioner wants to add the following words at the end of para no.1 of the plaint :-

*“At the time of execution of the agreement to sell,
the defendant had also handed over the original
sale deed dated 03.11.2005 regarding the property
in dispute which is in the name of the defendant to*

the plaintiff. Hence the said original sale deed dated 03.11.2005 is in possession of the plaintiff.”

3. Learned Trial Court dismissed the application mainly on the ground that the said amendment, sought by the plaintiff-petitioner, was well within his knowledge before the commencement of trial and last opportunity was also granted to the plaintiff-petitioner to conclude the evidence.

4. Heard.

5. The defendant-respondent, in reply to the aforesaid application, did not deny that the original sale deed dated 03.11.2005 was not handed over to the plaintiff-petitioner and the same is not in his possession. Procedure is hand-maid to the administration of justice and is meant for advancement of justice. A party cannot be non-suited merely on the basis of technicalities. The amendment sought by the plaintiff-petitioner is not in any way contradictory to the pleadings in the plaint but the same is in consonance with the said pleadings. The specific case of the petitioner is that original sale deed was handed over to him and same is in his possession. The said fact is necessary to be pleaded. There is no mala fide on the part of the petitioner. The other party would get an opportunity to file written statement to the amended plaint and thus, no prejudice would be caused to the other party, which cannot be compensated.

6. Accordingly, the present revision petition is allowed. The impugned order dated 06.02.2020 (Annexure P-4), passed by learned Trial Court, is hereby set aside, subject to payment of R.2,500/- as costs, to be paid to the other party in the Trial Court and the application under Order 6

Rule 17 CPC, moved by the plaintiff-petitioner for amendment of plaint, stands allowed.

August 01, 2023
monika

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.