

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

CR-5344-2022 (O&M)

Reserved on: 19.01.2023

Date of pronouncement: 25.01.2023

Jasbir Singh

...Petitioner

Versus

Sukhwant Singh

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Aman Kashyap, Advocate for the petitioner.

Mr. Akshay Mittal, Advocate with
Mr. Ivan Singh Khosa, Advocate for the respondent.

H.S. MADAAN, J.

Briefly stated facts of the case are that plaintiff Sukhwant Singh had filed a suit against defendant Jasbir Singh seeking a decree for mandatory injunction, directing the defendant to hand over the physical and vacant possession; in the alternative, symbolic possession of the land and building described in the headnote of the plaint.

2. On getting notice, the defendant appeared and filed a written statement, contesting the suit. Issues on merits were framed. During the course of proceedings, the plaintiff filed an application for amendment of the plaint, which was allowed. Statements of witnesses produced by the plaintiff had already been recorded.

Counsel for the defendant asked for an opportunity for

cross-examination of the PWs already examined after amendment of the plaint.

3. The trial Court of Civil Judge (Jr. Divn.), Chandigarh declined the request, being of the view that only nature of the relief has been changed from mandatory injunction to decree for possession without there being any change in material circumstances, therefore, there was no necessity for granting permission to the defendant to cross examine the PWs further. Such request was declined, vide order dated 16.05.2022, leaving the defendant aggrieved and he has approached this Court by way of filing the present revision petition, notice of which was given to the respondent/plaintiff, who has put in appearance through counsel.

4. I have heard learned counsel for the parties besides going through the record and in my considered view, the request of defendant for being granted permission to cross-examine the witnesses examined by the plaintiff prior to amendment of the plaint requires acceptance.

Admittedly, the nature of relief claimed has been changed by way of amendment from original relief claimed of mandatory injunction to seeking decree for possession, therefore, the defendant deserves to be granted an opportunity to subject the PWs already examined to further cross-examination in view of such amendment. Rejection of that request by the trial Court that there was no material change in circumstances by way of amendment was not justified.

Therefore, the revision petition is allowed; the orders under revision

are set aside and the trial Court is directed to grant an opportunity to the defendant to cross-examine the witnesses examined by the plaintiff prior to the amendment for the said reason.

5. Since the case in question relates to the year 2014, the trial Court would fix a date for appearance of PWs in the Court for further cross-examination and defendant would do the needful on that very day without asking for further adjournment.

25.01.2023

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No