

2023:PHHC:121745

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

CR-191-2019 (O&M)

Date of decision: 13.09.2023

Gurdip Singh

..Petitioner

Versus

Amarjit Singh and another

.Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Deepak Verma, Advocate for the petitioner
Mr. Surinder Thakur, Advocate for the respondent

ANIL KSHETARPAL, J (Oral)

1. The petitioner herein is a plaintiff in a pending suit for grant of decree of declaration that he is owner in joint possession of the suit property. The defendants filed the written statement on 15.11.2017. Thereafter, an application for rejection of the plaint under Order VII Rule 11 of the Code of Civil Procedure, 1908 was also decided. The petitioner's application for permission to amend the plaint in order to seek alternative relief of possession and settlement of accounts has been dismissed by the trial court. This revision petition has been filed to challenge the same.

2. Heard the learned counsel representing the parties and with their able assistance perused the paperbook.

3. Learned counsel representing the petitioner submits that the suit is at the initial stage and the evidence of the parties is yet to be recorded. He submits that the courts should be liberal in permitting the amendment of the pleadings, particularly, when the evidence of the parties has not been recorded.

4. On the other hand, the learned counsel representing the respondent vehemently contends that the nature of the suit is sought to be changed as the plaintiff originally claims to be in possession, however, now he prays for relief of possession which cannot be permitted.

5. This Court has considered the submissions made by the learned counsel representing the parties. In the civil suit the parties are permitted to pray for an alternative relief. In this case, the plaintiff has claimed that he is in the joint possession. However, now he wishes to pray for the relief of possession, if it is proved that he is not in actual possession. Such relief is an alternative relief, which is permissible in law. The nature of the suit would remain the same. It is the plaintiff's case that defendant no.1 has misused the power of attorney of the plaintiff, while transferring the property in favour of his wife (defendant no.1's wife). In the considered view of the Court, even after the amendment is permitted, the substance of the dispute will remain the same. Hence, the revision petition is allowed. The plaintiff is permitted to amend the plaint. The defendant shall be granted an opportunity to file the written statement to the amended plaint and thereafter, the court will proceed with the matter.

6. All the pending miscellaneous applications, if any, are also disposed of.

13.09.2023

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE