

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARHCR-239 of 2024 (O&M)  
Date of Order:07.03.2024

Nirmal Singh

.Petitioner

Versus

Rattan Singh and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Arun Abrol, Advocate, for the petitioner.  
Mr. Vipin Mahajan, Advocate, for respondent no.1.ANIL KSHETARPAL, J

1. On 16.01.2024, the following order was passed:-

*The learned counsel representing the petitioner inter-alia contends that the trial court has erred in dismissing the application for permission to amend the plaint on the ground that such amendment would change the nature of the suit. He submits that the plaintiff originally filed a suit to restrain the defendants from constructing the building on the disputed land. During the pendency of the suit, some construction was carried out by the defendants. Hence, the plaintiff wants to amend the plaint in order to incorporate the fact that the construction on some part of the suit land has already been raised and therefore, the prayer for mandatory injunction is sought to be added.*

*Notice of motion for 16.02.2024.*

*The petitioner shall have the liberty to serve the respondents through their counsel in the trial Court.*

*Dasti.*

*To be listed in the urgent list.”*

2. This court has once again heard the learned counsel representing the parties at length and with their able assistance perused the

paper book.

3. The learned counsel representing respondent no.1 submits that if the permission to amend the plaint is granted, it would result in changing the nature of the suit.

4. This court has considered the submissions of the learned counsel representing the parties.

5. In fact, if the appellants are permitted to amend the plaint, it would not result in changing the nature of the suit as the substance of the suit remains the same. Only an additional prayer for grant of mandatory injunction is sought to be added. It is the case of the plaintiff that the construction has been carried out by the defendants during the pendency of the suit. He has to be granted an opportunity to prove the same.

6. Keeping in view the aforesaid discussion, the order passed by the trial court on 20.10.2023, is set aside and the application for permission to amend the plaint is allowed.

7. The revision petition is allowed.

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

March 07, 2024  
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(ANIL KSHETARPAL)  
JUDGE

Whether speaking/reasoned :YES/NO  
Whether reportable :YES/NO