



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

212

CR-2411-2024

Date of Decision.:13.05.2025

Jagdish

.....Petitioner

Vs.

Tek Chand and Others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Ashok Kumar Khunger, Advocate
for the petitioner.

Dr. Rishi Pal Singh, Advocate for
respondent Nos.1 to 4 and 6.

Mr. Davneet Sangwan, Advocate
for respondent No.5.

DEEPAK GUPTA, J. (ORAL)

Power of attorney on behalf of respondent No.5 has been filed.

2. Petitioner herein is plaintiff in civil suit bearing No.CS-445-2019 titled "Jagdish v. Tek Chand and Others" pending before learned Civil Judge (Junior Division), Kurukshetra. He is aggrieved by the order dated 14.03.2024 (Annexure P-5) passed by trial court, whereby his application under Order VI Rule 17 CPC for amendment of the plaint, was dismissed.

3. It is contended by learned counsel that suit for seeking decree of permanent injunction was filed by the plaintiffs to restrain the defendants and their servants from raising any type of construction over the suit property and also from interfering in the peaceful possession of the plaintiffs over the suit property or to dispossess them from the suit property in any manner. Learned counsel contends that during pendency of

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the suit and despite interim order dated 17.06.2017 of the Court, whereby *status quo* was directed to be maintained, the defendants raised construction of the street in the suit property without having any right to do so and thus, violated the status quo order and so, in these circumstances, it was necessary to amend the plaint. By way of amendment petitioners- plaintiffs wanted to incorporate the plea regarding raising of construction of street by the defendants with the further prayer of mandatory injunction to direct the defendants to remove the unauthorized construction of street raised over the suit property. Learned counsel for the petitioners submits that declining of the said relief for amending the plaint was not justified at all on the part of the trial Court considering the fact that it is subsequent event, which the petitioners wanted to incorporate in the amended plaint.

4. Opposing the petition, it is argued by learned counsel for respondent No.5 that plaintiffs have no concern with the suit property and that in case, any construction has been raised as alleged by them, they can file an independent suit and so, application for amendment of the plaint has been rightly declined.

5. Having considered submissions of both the sides, this Court finds that impugned order dated 14.03.2024 passed by the trial Court cannot be sustained. Specific contention was made in the application for amendment by the petitioners- plaintiffs that despite grant of *status quo* by the Court on 17.06.2017, the defendants had raised construction in the suit property and it is for this reason that amendment of the plaint was necessary. The plaintiffs thus wanted to incorporate the subsequent events in the plaint and so, in these circumstances it had also become necessary to seek the additional relief of mandatory injunction. Of course, it will be matter of evidence, as to exactly when the construction was raised and as to whether the plaintiffs are able to prove their contention, to be

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incorporated in the amended plaint but rejection of the application for amendment at this stage, was not at all justified.

6. Consequently, the impugned order is hereby set aside. The application under Order VI Rule 17 CPC moved by the petitioner- plaintiff is allowed. Petition is accepted accordingly. Trial Court is directed to proceed further in accordance with law after permitting petitioners to file the amended plaint.

**(DEEPAK GUPTA)
JUDGE**

May 13, 2025

Neetika Tuteja

Whether Speaking/reasoned Yes/No

Whether Reportable Yes/No