



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

CR-2060-2023 (O&M)
Date of Decision: 29.04.2025

Santosh Gosain

...Petitioner

V/s

M/s Beli Ram Sareen and another

...Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Vikram Singh, Advocate, for the petitioner.

VIKRAM AGGARWAL, J (ORAL)

The present revision petition is directed against the order dated 04.03.2023 (Annexure P-10) passed by the Court of learned Civil Judge (Jr. Divn.), Ambala, vide which the applications filed by the petitioner under Order 1 Rule 10(2) and Order 6 and Rule 17 of the Code of Civil Procedure, 1908 (for short the "CPC") were dismissed.

2. For the sake of convenience and clarity, parties shall be referred to as per their original status.

3. The facts, as emanating from the revision petition, are that a suit was filed by the plaintiffs (respondents) against the defendant (petitioner) for mandatory injunction directing the defendant to hand over the vacant possession of the kiosk, which was a portion of property/plot No.180/1 to 3, Minerva Complex, Parking Side, Rai Market, Ambala Cantt (fully described in the plaint) (hereinafter referred to as the "suit property") and to direct the defendant to pay *mesne* profits.

3. During the pendency of the suit, an application under Order 1 Rule 10(2) CPC (Annexure P-4) was filed by the defendant (petitioner). It was averred in the application that the applicant-defendant had come to know



that the plaintiffs were not the owners of the suit property and that the kiosk had been temporarily built upon a public drain. Under the circumstances, the applicant-defendant sought to implead the Municipal Committee/Corporation, Ambala Cant and Naib Tehsildar, Cantt as a party to the suit. Another application under Order 6 Rule 17 for amendment of the written statement was moved seeking to add Point No.8 in the preliminary objection as regards the aforesaid fact of the non-applicants-plaintiffs not being the owners of the suit property.

4. Both the applications were opposed by way of replies (Annexure P-8 and P-9, respectively). By way of the impugned order dated 04.03.2023 (Annexure P-10), the applications were dismissed leading to the filing of the present revision petition.

5. I have heard learned counsel for the parties.

6. Learned counsel for the petitioner submits that since the applicant came to know later on that the suit property is in fact under the ownership of the Government, the applications under Order 1 Rule 10(2) CPC and Order 6 Rule 17 CPC deserve to be allowed.

7. I have considered the submissions made by learned counsel for the petitioner but find the same to be devoid of merit.

8. In the written statement filed by the applicant-defendant, it had been admitted that he was a licensee under the plaintiffs and that the plaintiffs were the owners of the suit property. The rate of license fee was also admitted. Subsequently, he sought to amend the written statement by incorporating a totally new fact that the suit property was not owned by the plaintiffs and that it was the MC, Ambala which was the owner. The trial Court rightly found that the defendant wanted to totally change the nature of the defence, which was not permissible. Still further, it was rightly found that



in support of his case set up in the applications, no document whatsoever had been placed on record to even *prima facie* prove that the suit property was Government land. The information under the Right to Information Act, 2005 only revealed about some unauthorized temporary encroachments outside the Minerva Complex but there was no mention about the suit property. The learned trial Court, therefore, rightly dismissed the applications. I do not find any illegality or jurisdictional error of the aforesaid findings recorded by the trial Court warranting interference by this Court.

11. In view of the above, I do not find any merit in the present revision petition and the same is accordingly dismissed.

Pending application(s), if any, shall also stand disposed of.

(VIKRAM AGGARWAL)
JUDGE

April 29, 2025
vcgarg

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No