

**(1979) 07 P&H CK 0012**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : Civil Revision No. 676 of 1978**

Suraj Kumar Jain

APPELLANT

Vs

Roshan Lal and others

RESPONDENT

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**Date of Decision :** 11-07-1979

**Acts Referred:**

**Citation :** (1979) 07 P&H CK 0012

**Hon'ble Judges :** G.C. Mital, J

**Bench :** Single Bench

**Advocate :** H.L. Sarin, with Mr. M.L. Sarin and R.L. Sarin, for the Appellant;  
Harinder Singh, for the Respondent

**Final Decision :** Allowed

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## Judgement

G.C. Mital, J.—This is a revision petition filed by the plaintiff against the order of Subordinate Judge III Class Hoshiarpur, dated 27th of March, 1978, by which he declined two applications of the plaintiff, one for the amendment of the plaint and the other for the appointment of a commission to demarcate the property in dispute.

2. The learned counsel for the petitioner has urged before me with regard to the application for amendment that during the pendency of the suit he came to know that the taur in dispute, which is now part of khasra Nos.209 and 226, came in place of old khasra Nos. 1444/6.7 and 416 of the previous settlement as a result of consolidation operations, and, therefore, it was necessary to amend the heading of the plaint by stating the aforesaid facts. The learned counsel goes on to argue that the trial Court was duty bound to allow such an amendment for proper determination of the dispute between the parties, I find merit in the contention of the learned

counsel for the petitioner with regard to the application for amendment of the plaint which should have been allowed and in my opinion, the trial Court acted illegally and with material irregularity in exercise of its jurisdiction in not allowing the applicant on wholly untenable reasons. All that the petitioner wanted to do was to furnish better particulars and to state that Khasra Nos. 202 and 226. In regard to which he held the present suit were represented before the consolidation in the previous settlement by Khasra Nos. 1444/8 6 and no cogent reason has been given by the trial Court for disallowing such an amendment. The learned counsel for the defendants-respondents could not raise any meaningful argument to sustain the order of the trial Court, for refusal of the amendment application. Consequently I reverse the order of the trial Court with regard to the refusal of the application for amendment, I allow the application for amendment and the trial Court shall now proceed with the amended plaint in accordance with law.

3. As regards the dismissal of the application for appointment of a local Commissioner to demarcate the site in dispute, the learned counsel for the defendants-respondents has raised a preliminary objection that in view of the Division Bench judgment of this Court reported in *Harvinder Kaur etc v. Godha Ram etc* ILR 1979 (1) P&H. 147, no revision is competent in this Court and as such that part of the order of the trial Court cannot be interfered with by this Court. The aforesaid decision is clearly on the point and, therefore, sitting in revision, I have no jurisdiction to interfere with the order of the trial Court declining the prayer for appointment of local commissioner for demarcating the site. But I cannot help remarking that where the identity of the property is in dispute between the parties, generally a local commissioner should be appointed and that should have been done in this case also.

4. For the reasons recorded above, this revision is allowed in part and the order of the trial Court dated 27th March, 1978, is set aside so far as the dismissal of the application for amendment of the plaint is concerned. The parties, through their counsel, are directed to appear in the trial Court on 2nd of August, 1979. There will be no order as to costs.