

## **M/s. SHV Buildwell Pvt. Ltd. Vs M/s. Aggradeep Realtors Pvt. Ltd. and Another**

**Court:** High Court Of Punjab And Haryana At Chandigarh

**Date of Decision:** July 25, 2013

**Acts Referred:** Specific Relief Act, 1963 â€" Section 16(c)

**Hon'ble Judges:** K. Kannan, J

**Bench:** Single Bench

**Advocate:** Hemant Saini, for the Appellant;

**Final Decision:** Dismissed

### **Judgement**

K. Kannan, J.

The revision is against an order allowing an application for amendment sought by the plaintiff in a suit for specific

performance on the ground that there were some typographical errors in the initial plaint and hence wanted to include in paragraph 9-A to the

existing paragraph 9. The existing paragraph refers to an agreement of sale executed on 9.5.2005, that the first defendant vendor did not act as per

the terms of the agreement and that there was a Panchayat held asking the first defendant to execute the sale deed. The plaintiff could aver in the

plaint as originally pleaded that he was at the Sub Registrar's office at the relevant time but the vendor did not turn up. In the amended plaint

sought to be made by introduction of paragraph 9-A, there is a reference to the fact of exchange of notices through counsel between the plaintiff

and the first defendant and the plaintiff has also given a specific date when the plaintiff had actually turned up at the Sub Registrar's office when the

defendant did not turn up. The amendment does not bring any change in cause of action nor does it introduce any fact which is such as to take the

defendant by surprise. It sets out (i) that there was an exchange of notices and ii) it gives a date of the event which was already set out in the plaint

that he waited at the Sub Registrar's office when the first defendant did not appear.

2. These additions brought about is assailed in revision by the subsequent purchaser on a plea that these facts were surely known to the plaintiff at

the time when the suit was filed and that it was not merely a typographical error as sought to be contended by introducing wholly a new para.

Learned counsel would also refer me to the decision of the Supreme Court in J. Samuel and Others Vs. Gattu Mahesh and Others, as setting out a

law exactly similar to the facts that arise into the case. The Supreme Court was considering a case of amendment sought to incorporate a plea on

an averment that it was missed due to typographical mistake in the plaint. The plaintiff in that case was seen to be introducing a whole new case.

The omission had been on a vital plea in plaint referring to the essentials of what was to be stated u/s 16(c) of the Specific Relief Act. The court

found it to be a result of lack of due diligence which could not be recorded merely as typographical error. If at all, any congruity of the incidence

could be noted, it is a reference to typographical error. In this case, evidently it was not a typographical error. We are applying a language which is

foreign to us. If the plaintiff has stated that due to typographical error he had not referred to the exchange of notice, it should be seen that he was

referring to a issue which ought to have been stated previously. I do not think that there was any essential pleading which was omitted to be stated

or any addition or inclusion that brings about a situation that can harm the defendant. The revision is an unmerited attempt at the instance of the

subsequent purchaser and it deserves to be dismissed and accordingly dismissed.