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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Reserve: March 05, 2010
Date of Order: March 12, 2010

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12.03.2010

Chand Lal Surana & Anr.

...Petitioners

Through: Mr. TPS Kang and Mr. MM Alam, Advocate

Versus

Dharambir Saini & Anr.

...Respondents

Through: Mr. Sanjeev Sabharwal & Mr. Hem Kumar, Advocates

JUSTICE SHIV NARAYAN DHINGRA

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporter or not?
3. Whether judgment should be reported in Digest?

JUDGMENT

1. By way of present petition, the petitioners have assailed an order dated 8th January, 2010 passed by learned ADJ, Delhi in Suit No.386 of 2009 dismissing an application of the petitioner under Order 6 Rule 17 read with Section 151 CPC for amendment of written statement. A perusal of record would show that the petitioner had earlier made an application under Order 1 Rule 10 CPC for impleading Shri Hazari as a party. This application was dismissed and the petitioners did not challenge the order of refusal of impleading Shri Hazari as a party. During trial, after evidence of plaintiff's witnesses, the petitioner made this application for amendment of written statement on the ground

that during cross examination of plaintiff's witnesses some more facts have come on record and the petitioner should be permitted to incorporate those facts in the written statement.

2. The learned trial court dismissed that application and rightly so. The application made by the petitioners and the present petition are misconceived. The provision for amendment of pleadings cannot be allowed to be misused. The facts which come on record by way of evidence are to be taken cognizance of by the court in accordance with laws of evidence. A party does not have a right to amend the pleadings after recording of evidence a witness on the ground that witness disclosed certain facts in his evidence. If it is allowed, the party can keep on amending the pleadings after testimony of each witness. That would be a mockery of trial. Even otherwise, pleadings are supposed to contain the facts in concise form and not the evidence. The evidence which comes on record of the court is to be seen in light of the pleadings and ought to be considered at the time of adjudication. No party can be allowed to keep on amending the pleadings on the basis of evidence of the witnesses. I find no force in this petition. The petition is hereby dismissed. No orders as to costs.

March 12, 2010
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SHIV NARAYAN DHINGRA J.