

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 2586 of 2008 (O/M)
Date of decision : 11.8.2015

Munish Malik

..... Revisionist

Versus

Mohali Bus Service and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Anshu M. Punchhi, Advocate, for the revisionist.

Mr. N.S. Shekhawat, Advocate, for respondent No. 1.

Mr. T.N. Sarup, Additional A.G. Punjab,
for respondents No. 2 to 6.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH, J. (ORAL)

Impugned in the present revision is the order dated 1.4.2008, passed by the learned Civil Judge (Junior Division), Jalandhar, vide which the application of the plaintiff (respondent No. 1 herein) under Order 6 Rule 17 read with Section 151 of Code of Civil Procedure, 1908 (in short 'CPC') for amendment of the plaint, was allowed.

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The brief facts of the case are that plaintiff/respondent No. 1 had filed a suit for declaration to the effect that defendant No. 6 (revisionist herein) does not belong to scheduled caste community and the scheduled caste certificate (Annexure-P-1), produced by him, is illegal. As a consequential relief, mandatory injunction was also sought, directing respondents No. 1 to 5 i.e. State authorities to release (sic) (read cancelled) the certificate of caste of defendant No. 6/revisionist. The suit was filed on 29.4.2007. After framing of the issues, when the case was fixed for the evidence of the plaintiff/respondent No. 1, the present application has been filed, seeking amendment of the plaint where further declaration was sought that the alleged route permit No. 247/Reg/Stage/89, issued to defendant No. 6/revisionist is result of fraud and deserves to be cancelled and the plaintiff/respondent No. 1 is entitled to ply any bus on this route. The said amendment was allowed by the learned Civil Judge (Senior Division), Jalandhar.

I have heard learned counsel for the parties and have also carefully gone through the file.

Admittedly, under the Motor Vehicle Act, 1988 (in short 'the Act'), certain authorities are prescribed, which can issue the route permit and the said authorities are also competent to cancel the route permit. Then, statutory Transport Appellate Tribunal, Punjab, (in short 'the Tribunal') has been established, which hears

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such matters. It comes out that infact the parties had already been litigating before the said Tribunal wherein the said plaintiff/respondent No. 1 had filed Appeal No. 32 of 1999 on the same grounds. The said appeal was dismissed by the Tribunal on 5.3.2002 (Annexure-P-3) and thereafter, the present suit was filed.

Now, the question before this Court is whether the amendment could be allowed ?

The route permit was issued to defendant No. 6/revisionist way back in the year 1989. First of all, even if, assuming that the civil court is competent issue the route permit to the plaintiff/respondent No. 1 after cancelling the route permit of defendant No. 6/revisionist, the remedy is hit by limitation. Secondly, the civil court is not competent to cancel a route permit or issue the route permit to the plaintiff/respondent No. 1. Therefore, the present amendment will be a useless exercise and sheer wastage of time of the Court.

Undisputedly, the subsequent facts brought to the notice of this Court are that the said scheduled caste certificate was cancelled after constituting a board and the writ petition challenging the said order is pending before this Court. Further, defendant No. 6/revisionist has got the route permit transferred in the name of one Tarlok Singh. The renewal of the same was later on refused on the ground of original permit being obtained as a result of production of

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false caste certificate and writ against the said order is also pending before this Court. It being so, the impugned order dated 1.4.2008, passed by the learned Civil Judge (Junior Division), Jalandhar, is not sustainable in the eyes of law. Accordingly, the same is set aside. Consequently, the application under Order 6 Rule 17 read with Section 151 CPC for amendment of the plaint is dismissed.

The present revision is accordingly allowed.

(KULDIP SINGH)
JUDGE

11.8.2015
sjks