

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

C.R.No.3291 of 2008 (O&M)

Date of Decision: December 18, 2015

Rajiv Kumar & another

...Petitioners

Versus

Vijay Kumar & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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

Present: Mr.S.P.Garg, Advocate,
for the petitioners.

Mr.S.K.Garg Narwana, Senior Advocate with
Mr.Teevar Sharma, Advocate,
for respondent No.1.

AMIT RAWAL, J. (Oral)

Civil Misc.No.3434-CII of 2013

Prayer in the application is for bringing on record the L.Rs of
respondent Nos.4 and 9. The same is supported by an affidavit.

Allowed subject to all just exceptions for the purpose of
prosecuting this case only.

Civil Misc.No.25596-CII of 2015

For the reasons mentioned in the application, which is
supported by an affidavit, the order dated 26.11.2015 is recalled and the
revision petition is restored to its original number.

CM stands disposed of.

Civil Revision No.3291 of 2008 (O&M)

Petitioners are aggrieved of the order, whereby the application seeking amendment of the written statement at the stage of rebuttal evidence and arguments, has been declined.

Mr.S.P.Garg, learned counsel appearing on behalf of petitioner-defendants submits that the petitioners acquired the knowledge of filing the candid/admitted written statement when the respondent-plaintiffs filed reply in a suit for permanent injunction against them. It is in these circumstances, the amendment was sought. He further submits that as per the Will executed by the grand-father Ram Parshad, the property including the property in dispute has been bequeathed in favour of the defendants, who are none else but the grand sons of Ram Parshad. In the application, it was specifically stated that the written statement has been filed on the blank signed papers and also on the power of attorney on the pretext that the same was required for the purpose of demarcation of the property. The trial Court has failed to take into consideration the aforementioned facts while declining the application.

Mr.S.K.Garg Narwana, learned Senior Counsel assisted by Mr.Teevar Sharma, appearing on behalf of respondent No.1 submits that the application had been moved at a belated stage. Defendant Nos.2 and 3 along with defendant Nos.1 and 9 had put in appearance through their counsel and misused the process by moving the application. The application at the instance of defendant Nos.2 and 3 has been moved on the instigation of defendant Nos.5 to 8. In the Civil Suit bearing No.287 dated 1.12.1999, decided on 28.2.2001 titled Rohit Singla Versus Rajinder Kumar & others, defendant No.3 has admitted the Will dated 29.4.1994 being not correct and the suit was dismissed as withdrawn on 28.2.2001 and, thus, prays for

dismissal of the revision petition.

I have heard the learned counsel for the parties and appraised the paper book.

At the outset, it would be seen whether the petitioner-defendants have sought any criminal action against the respondent-plaintiffs vis-a-vis misuse of the blank papers and the power of attorney. The written statement was filed in the month of March, 2008 and the suit had reached at the stage of rebuttal evidence and arguments. No explanation has come forth in not moving the application at the relevant point of time. Even the date of filing of the suit, much less filing of the reply to the application under Order 39 Rule 1 & 2 CPC has not been disclosed.

The application seeking amendment of the written statement amounts to complete somersault of the stand taken therein, in essence, withdrawing of the admission, which is not permissible until and unless it is duly explained. The explanation given in the application is not supported by any documentary evidence, much less any reasonable explanation.

Keeping in view the aforementioned facts, I do not intend to differ with the findings rendered by the trial Court. There is no merit in the revision. The same is accordingly dismissed.

The stay order granted by this Court stands vacated

December 18, 2015
ramesh

(AMIT RAWAL)
JUDGE