

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

Civil Revision No.249 of 2014

Date of decision:30.10.2015

Sant Baba Atar Singh Khalsa Truck Operator Union, Sandaur,
Tehsil Malerkotla.

... Petitioner

versus

Kuldeep Singh and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. K.B. Raheja, Advocate,
for the petitioner.

Mr. Premjit Singh Dhaliwal, Advocate,
for respondent No.1.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ? No.

K.Kannan, J. (Oral)

1. The plaintiff, who has filed a suit on behalf of the Truck Operator Union, to restrain the defendants from operating the accounts of the Union, has moved an application for amendment of the plaint to include a prayer for mandatory injunction for a direction to deposit the amount withdrawn by him during the pendency of the suit. The court has dismissed the application holding that the plaintiff can file a separate suit.

2. Before the arguments got underway, I asked the counsel appearing on behalf of the respondent as to how there can be any objection to an amendment to provide for an appropriate relief by taking note of a subsequent event during the pendency of suit. The counsel for the respondent states that the withdrawal of money had been made by the defendant in the year 2009 and the plaintiff had sought for amendment through an application filed more than 3 years after the institution of suit. Both the plaintiff and the defendant claimed to represent a trade union and it is not a suit for recovery of money borrowed by the defendant from the plaintiff or on a contract between the plaintiff and the defendant. The issue of whether the amount could be withdrawn and used by the defendant purporting to act on behalf of the Union will be the sole issue for consideration and I will not find the bar of limitation as applicable; at least prima facie so. I do not want to pronounce my mind, for, the respondents may feel prejudiced by such a course. There is surely a point for consideration for the court if a plea of limitation is taken by the respondents. I leave it open for the defendant to urge for such a contention but will allow for the amendment to be brought in the manner sought as consequential to main relief which was sought in the suit for restraint against the respondents from operating the account and providing for mandatory relief as purely incidental to the relief already sought in the plaint.

3. The order passed is set aside and the amendment is ordered as prayed for. The defendant will have a right to file an additional written statement or an amendment to the written statement in the manner contemplated under Order 8 Rule 9 CPC and the defendant will also be not barred from taking up the issue of limitation by the only fact that the application for amendment has been ordered.

4. The revision petition is allowed on the above terms.

(K.KANNAN)
JUDGE

30.10.2015
sanjeev