

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No. 3508 of 2015
Date of Decision: 21.5.2015.

Sukhpreet Singh Chuahan and anotherPetitioners

Versus

Sanjeev Garg and anotherRespondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Saurabh Bajaj Advocate
for the petitioners.

SABINA, J.

Petitioners have filed this petition under Article 227 of Constitution of India challenging the order dated 22.1.2015 (Annexure P-6) whereby application moved by the plaintiff under Order 6 Rule 17 of the Code of Civil Procedure, 1908 ('CPC' for short) for permission to amend the plaint, was allowed.

I have heard the learned counsel for the petitioner and have gone through the record available on the file carefully.

Order 6 Rule 17 CPC reads as under:-

Amendment of pleadings:- *“The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such " terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties.”*

Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court

comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.

Thus, as per the above provision, the Court has ample power to allow either of the party to amend its pleadings which are necessary for the purpose of determining the real question in controversy between the parties. However, as per the proviso the application for amendment shall not be allowed after the trial has commenced.

Respondent No. 1 has filed suit for specific performance of agreement to sell dated 10.4.2011. After the filing of the written statement by the defendants, plaintiff moved an application under Order 6 Rule 17 CPC for permission to amend the plaint. By way of amendment, plaintiff wants to incorporate following para in the plaint:-

“a. That in para No. 2 the following lines are to be added in the end, “It is submitted that at the time of execution of agreement to sell the plaintiff paid the amount of Rs. 40 Lacs in cash to the defendants but the next day defendants requested that the amount of Rs. 40 lac should be paid through bank as a result of which the amount was paid through RTGS and cheque. On 11.4.2011 a sum of Rs. 15 Lac was paid through RTGS to Sukhpreet Singh and out of Rs. 40 lac paid in cash on 10.4.2011 a sum of Rs. 15 lac was returned in cash to the plaintiff by the defendants. Again on 20.4.2011 a sum of Rs. 15 Lac was paid through RTGS to Sukhpreet Singh and a sum of Rs. 15 Lac was returned out of the amount

received in cash on 10.4.2011 and remaining amount of Rs. 10 Lac was returned on 21.4.2011 to the plaintiffs after receiving a sum of Rs. 10 Lac through cheque by defendant No. 3. In this way the amount of Rs. 40 Lac was paid through RTGS/cheque on the said dates and respective cash amount which was paid in cash on 10.4.2011 was taken back. The above said amount was so paid to Sukhpreet Singh and Harjeet Kaur as per the request of defendants.”

Thus, by way of amendment, plaintiff does not propose to change the nature of the suit but only wants to explain the mode of payment. In the facts and circumstances of the present case, the learned Trial Court had, thus, rightly permitted the plaintiff to amend the plaint.

No ground for interference by this Court is made out.

Dismissed.

**(SABINA)
JUDGE**

May 21, 2015
Gurpreet