

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.3560 of 2012
Date of decision: 17.09.2015

Ramesh Kumar

... Petitioner

Versus

Raj Kumar

... Respondent

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. KS Rekhi, Advocate, for the petitioner.
Mr. Veneet Sharma, Advocate for the respondent.

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?

ARUN PALLI J. (Oral)

Vide order being assailed, dated 12.12.2011, rendered by Civil Judge (Jr. Divn.) Amritsar, the application moved by the petitioner-plaintiff, seeking amendment in the plaint, has since been dismissed.

In a suit filed by the petitioner-plaintiff, he prayed for a decree for injunction restraining the defendant from breaking the wall of the house of the plaintiff from point M and fixing a door therein, shown in red colour in the site plan appended with the plaint and depicted by boundaries ABCD. And vide a proposed amendment, all what is sought to be urged by the petitioner is that despite an ad interim injunction granted on 19.04.2007, defendant broke the wall of the house

of the plaintiff and fixed a door therein on 29.04.2007 and 02.05.2007. Therefore, the petitioner-plaintiff be permitted to amend the suit and pray for a decree for mandatory injunction as well.

In response, the amendment sought by the petitioner was alleged to be wholly misconceived and erroneous. Accordingly, the respondent prayed for dismissal of the application.

The trial court, on an analysis of the matter in issue, declined the prayer for amendment in the plaint and concluded as thus:

“Perusal of the file shows that the present suit was filed on 18.4.2007 and the application was filed after the commencement of the trial. The plaintiff wants to include the facts which have occurred during the pendency of the case. It is not required for reaching just decision of the case. So the application is dismissed. File be put up on 19.1.2012 for consideration on stay application.”

I have heard learned counsel for the parties and perused the records.

Ex facie, the order declining the prayer for amendment is cryptic, for neither does it analyze what is the case set out by the plaintiff nor as to what is the proposed amendment. And how far, that would be relevant or crucial to arrive at a just and fair decision in the matter.

Accordingly, the petition is accepted and the order dated 12.12.2011 is set aside. The trial court is directed to re-decide the application moved by the petitioner, under Order 6 Rule 17, Code of Civil Procedure, and pass an order afresh, strictly in accordance with law, within one month from the receipt of certified copy of this order. Needless to assert, a comprehensive order shall be passed assigning reasons in support of the decision arrived at.

This order, however, shall not constitute any expression of opinion on merits of the case of either party.

September 17, 2015
Rajan

(Arun Palli)
Judge