

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.4106 of 2012.

Decided on:-February 05, 2015.

Gursharan Singh.

.....Petitioner.

Versus

Manmohan Singh.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE DR. BHARAT BHUSHAN PARSOON.

Argued by:- Mr. Parminder Singh, Advocate
for the petitioner.

Mr. Ashok Sharma, Advocate
for the respondent.

Dr. Bharat Bhushan Parsoon, J.

Genesis of this civil revision petition is found in order dated 28.5.2012 (Annexure P-6) whereby application under Order VI Rule 17 CPC for amendment of the written statement filed by the defendant, petitioner herein, was dismissed.

2. A suit for seeking a decree of possession of House No.306-L, Model Town, Karnal with further relief of permanent injunction and recovery of mesne profits is pending adjudication before the Civil Judge (Senior Division), Karnal since 27.2.2009.

3. The defendant contesting the suit tooth and nail has set up a family arrangement of 29.5.2000. Claiming that the suit filed by the plaintiff, respondent herein, is completely out of the domain and sweep of the said family settlement and thus is an abuse of process of law. It is further averred that the same has been filed with malafide intention just to harass and

humiliate the defendant and further to grab the property in question.

4. Though the application for amendment of the written statement is couched in such simple words that it appears to be an innocent effort to correct the typographical errors in the written statement but when it is seen closely in the interface of family settlement of 29.5.2000 as also the written statement filed earlier, it clearly transpires that it is a subtle move of the petitioner-defendant to completely change his defence as also is an effort to complicate the issues further rather than resolving the same.

5. As has already been mentioned, the suit is based on family settlement of 29.5.2000 wherein it was also mentioned that the family settlement executed on 1.5.1999 was side-tracked by the defendant, now by way of an amendment in the written statement completely a new theory has been set up by the defendant whereby it is claimed that the family settlement of 1.5.1999 (which has been completely denied by the defendant earlier) had merged into family settlement of 29.5.2000.

6. In the earlier written statement, it was also admitted that an amount of Rs.10 lacs was to be paid by Manmohan Singh to Smt. Raminder Kaur at the time of purchasing the stamp papers for getting the sale deed registered of agricultural land, but now the defendant has taken a totally contradictory stand in the amendment that there is an agreement executed on 13.6.2000, thus, introducing completely a new document which changes the entire *terra firma* of the defence of the defendant.

7. Close reading of amendment sought in the written statement in relation to the two family settlements as also the written statement filed earlier, leaves no manner of doubt that the effort is not to correct typographical mistakes as the defendant has very innocently put it, but is an endeavour to replace the written statement filed earlier by completely a new

one, thus, taking the clock in the reverse gear.

4. No doubt, admissions made earlier can be withdrawn by offering proper explanations but in this case, situation is not as simple as has been projected by the defendants. The learned lower court was right in arriving at a conclusion that the amendments sought in the written statement are very subtle and shrewd and the averments sought to be introduced were well in the knowledge of the defendant even at the time of filing of the earlier written statement. It has also been held that there is complete want of due diligence.

5. Looking from another angle, the trial has proceeded further. The suit was filed on 27.2.2009. Issues were framed on 22.12.2009 and the plaintiff has already led substantial evidence. At this stage, reference may be made to proviso appended to Rule 17 of Order VI CPC, which for ready reference is reproduced as below:

“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.”

6. Allowing of this application at such a belated stage not only takes the entire proceedings in the reverse gear but also changes the tenor and temperament of the litigation. By way of seeking amendment in the written statement, the defendant, petitioner herein, has completely derailed the earlier defence set up by him by substituting it with completely new pleas based on new documents about which there is not even a whisper made in the earlier written statement. Not only the domain and sweep of the defence changes but even the nature of litigation as also content and substance of the same entirely change resulting in missing of focus of the

earlier litigation. Effort of the defendant is to proliferate the entire matter into a litigious course of conduct which may even result in application under Order I Rule 10 CPC for impleadment of other parties, thus, providing a battleground for all members of the family to lock their horns with the plaintiff who has filed the suit to litigate only with the defendant-petitioner herein.

7. The application is neither bonafide nor would help the court in competent, effective and wholesome adjudication of the matter in controversy between the parties to the litigation. Rather, it would result in making the matter in litigation more complex and confusing. Effort of the defendant is merely to delay and dilate the entire issue by making it a luxury litigation for all the parties to participate instead of solving and settling the matter raised by the plaintiff even if not by settlement but by adjudication. The amendment is not at all necessary for determining the real questions in controversy between the parties.

8. Keeping in view the totality of facts and circumstances as discussed earlier, the application (Annexure P-4) under Order VI Rule 17 CPC was rightly dismissed by the lower court vide impugned order dated 28.5.2012 (Annexure P-6).

9. Sequelly, affirming the impugned order, this petition, being devoid of any merit, is dismissed.

(Dr. Bharat Bhushan Parsoon)
Judge

February 05, 2015

'Yag Dutt'

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