

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No. 4294 of 2015 (O&M)
Date of decision: 20.7.2015

Rajpal

.. Petitioner

v.

Subhash and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Arun Yadav, Advocate for the petitioner.

...

Rajesh Bindal J.

Challenge in the present petition is to the order dated 28.5.2015, passed by the court below, whereby the application filed by the petitioner for amendment of the written statement, was dismissed.

In the case in hand, respondent No. 1-plaintiff filed a suit for declaration and permanent injunction on 11.10.2012. The issues were framed on 6.10.2014. The application was filed for amendment of the written statement claiming that certain facts could not be mentioned, which are necessary for proper adjudication. The court below dismissed the application opining that effort of the petitioner is to file a new written statement and not to amend the same and the reason as to why the amendment was required could not be explained. A perusal of the application filed by the petitioner seeking amendment of the written statement shows that it does not contain necessary particulars as to in which paragraph amendment has been sought to what effect. In the absence

thereof, the application seeking amendment of the written statement could not be entertained. For the purpose, reference can be made to the judgment of this Court in Shri Charanjit Lal v. Shri Ramesh Kumar, 2012(2) PLR 51.

Paragraphs 15 and 16 thereof are extracted below:

15. Before parting with the order, this court would like to reiterate what was stated by Hon'ble the Supreme Court in Gurdial Singh and others v. Raj Kumar Aneja and others, 2002 (2) Civil Court Cases 1, pertaining to the manner in which the amendments made are to be shown in the pleadings. These are to be highlighted so as to make a distinction between un-amended and amended portions. Paragraph 17 thereof is extracted below:

“17. Thus, once a prayer for amendment is allowed the original pleading should incorporate the changes in a different ink or an amended pleading may be filed wherein with the use of a highlighter or by underlying in red the changes made may be distinctly shown. The amendments will be incorporated in the pleading by the party with the leave of the Court and within the time limited for that purpose or else within fourteen days as provided by Order 6 Rule 18 of the CPC. The Court or an officer authorized by the Court in this behalf, may compare the original and the amended pleading in the light of the contents of the amendment application and the order of the Court permitting the same and certify whether the amended pleading conforms to the order of the court permitting the amendment. Such practice accords with the provisions of Code of Civil Procedure and also preserves the sanctity or record of the Court. It is also conducive to the ends of justice in as much as by a bare look at the amended pleading the Court would be able to appreciate the shift in stand, if any, between the

original pleading and the amended pleading. These advantages are in addition to convenience and achieving maintenance of discipline by the parties before the court. Amendments and consequential amendments, allowed by the Court and incorporated in the original pleadings, would enable only one set of pleadings being available on record and that would avoid confusion and delay at the trial. Most of the High Courts in the country follow this practice, if necessary by making provisions in the rules framed by the High Court for governing the subordinate Courts and their Original Side, if there be one. In fact in the State of Punjab and Haryana and Union Territory of Chandigarh, there is a local amendment whereby the text of Rule 17 in Order 6 of the CPC has been renumbered as sub-rule (1) and the following sub-rule (2) added:-

“(2) Every application for amendment shall be in writing and shall state the specific amendments which are sought to be made indicating the words or paragraphs to be added, omitted or substituted in the original pleadings.”

The abovesaid rule appears to have been completely over-looked while moving the application for amendment. It is expected that the Courts in Punjab, Haryana and Chandigarh would follow the rule in letter and spirit.”

[Emphasis supplied]

16. It is generally seen that the aforesaid Rule and the directions of Hon'ble the Supreme Court are not being followed diligently and the amended pleadings are filed without showing any distinction about the un-amended and amended portions. The learned courts below to ensure that filing of amended

pleadings by the parties are strictly in terms of the directions of Hon'ble the Supreme Court in Gurdial Singh's case (supra).

In view of the aforesaid enunciation of law, there is no merit in the present petition. The same is, accordingly, dismissed.

(Rajesh Bindal)
Judge

20.7.2015
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(Refer to Reporter)