

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

C.R.No.4052 of 2014 (O&M)

Date of Decision: December 8, 2015

Ram Parkash

...Petitioner

Versus

Som Parkash

...Respondent

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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?

Present: Mr.R.S.Budhwar, Advocate,
for the petitioner.

Mr.Parminder Singh, Advocate,
for the respondent.

AMIT RAWAL, J. (Oral)

Petitioner-defendant is aggrieved of the order dated 14.5.2014 (Annexure P-7), whereby the application seeking amendment of the written statement, has been declined.

The contention of Mr.R.S.Budhwar, learned counsel appearing on behalf of the petitioner-defendant is that during the evidence of DW-2, who appeared on 23.1.2013, the factum of the sale deed dated 29.9.1970 in favour of the defendant and his father came to the light, which he wanted to incorporate in paragraph 1 of the preliminary objection, which has erroneously been declined as the evidence with regard to the proposed amendment has already come on record.

Mr.Parminder Singh, learned counsel appearing on behalf of the respondent-plaintiff contents that the sale deed does not connect with

the suit property, but connotes a different property and, therefore, it is not essential and necessary to incorporate in the pleadings.

I have heard the learned counsel for the parties and appraised the paper book.

It is settled law that no evidence beyond the pleadings can be looked into. Since the evidence has already come on record with regard to the property, which fact has not been noticed, in my view, after acquiring the knowledge, he has sought the indulgence of this Court by adding ten lines in the preliminary objection, which read thus:-

“The litigation of the suit land was settled by way of aforesaid suits. The suit land is owned and possessed by the defendant and his uncle Raj Pal as they had purchased the suit land i.e. Land measuring 0 Kanal 12 Marlas comprised in Khewat No.20 min Khatauni no.29 Rect.No.23 Killa No.3/1 (0-12) situated in Village Phoosgarh Tehsil Indri District Karnal for a sum of Rs.13,000/- and as such the plaintiff has nothing to do with the same and has no concern with the suit land. Hence the present suit is not maintainable.”

In my view, such amendment would not alter the nature of defence or withdrawing of the admission. Since evidence has already come on record, it has become essential and necessary for the petitioner-defendant to seek amendment.

Keeping in view of the aforementioned facts, the impugned order is set-aside. The application filed under Order 6 Rule 17 CPC seeking amendment is allowed.

Revision petition stands allowed.

December 8, 2015
ramesh

(AMIT RAWAL)
JUDGE

