

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

CR No.4352 of 2015

Date of decision : 11.08.2015

Surinder Kumar @ Surjan

...Petitioner

Versus

Mahant Gomati Dass Chela

...Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Krishan Sehajpal, Advocate for the petitioner.

AMIT RAWAL, J. (Oral)

Challenge in the present petition is to the order dated 27.05.2015, whereby application filed by the petitioner/defendant for amendment of the written statement has been rejected.

Mr. Krishan Sehajpal, learned counsel appearing on behalf of petitioner submits that when the written statement was filed, the petitioner/defendant did not know about the factum that the respondent/plaintiff did not have locus standi to file the suit and after ascertaining the information at the later stage, an application for seeking amendment of written statement was filed and the trial Court thus, has committed illegality and perversity in declining the application. He further

submits that the suit at the evidence stage of the respondent/plaintiff & amendment sought will not change the nature of the suit and, therefore, the amendment ought to have allowed by the trial Court. In support of his contentions, he has relied upon judgment of Hon'ble Supreme Court in *Mahila Ram Kali Devi & ors. Vs. Nandram (D) through LRs & ors 2015 (3) 333 Civil Court Cases* and this Court in *Neetu Goel Vs. Yogesh Goel 2013 (1) R.C.R. (Civil) 667*.

I have heard learned counsel for the petitioner.

The judgments of two Courts (Supra) deals with amendment which had been sought to elaborate the defence by way of amendment in the written statement whereas the judgment of Mahila Ram Kali (Supra) deals with the amendment in the case of mistake or inadvertence by infraction of the Rules or the proceedings. However, the instant case, is not covered by the ratio descendi culled out in the aforementioned case for the simple reasons that the petitioner/defendant by filing written statement admitted the pleadings in corresponding paragraphs of the plaint.

For the sake of brevity, para No.1 of the plaint and written statement are extracted hereinbelow:-

Plaint

“1. That the shop in question as shown red in the site plan and mentioned in the head note of the plaint is the ownership of Shri Raghunath Shiv Mandir, Jandu Singha, District Jalandhar and plaintiff is Mahant of Shri Raghunath Shiv Mandir, Jandu Singha as well as chairman of the Trust of Shri Raghunath Shiv Mandir and has been looking after the affairs of Shri Raghunath Shiv Mandir, Jandu Singh as well as the properties of Shri Raghunath

Shiv Mandir, Jandu Singha.”

Written statement

“1. That para No.1 of the plaint is admitted.”

The amendment which has been sought in the application is to add the preliminary objection which read thus:-

“5. That the plaintiff has no locus standi and was also not competent to file the present suit as the suit property is a property of the trust namely, Raghunath Shiv Mandir, which was registered in the year 2006 and as per law, registered trust has its own legal entity and has got every right to sue and be sued. Whereas the said suit has been wrongly filed by plaintiff Gomati Dass.”

The aforementioned amendment in my view and as per the view expressed by the trial Court amounts to the withdrawal of the admission, though the petitioner/defendant had already taken objection qua maintainability of the suit and thus shall be liberty to show the evidence.

There is no illegality and perversity in the impugned order.

There is no merit in the arguments raised in the present petition as the petition is devoid of merits.

Accordingly, the present petition is dismissed.

11.08.2015

pawan

**(AMIT RAWAL)
JUDGE**