

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 4140 of 2014 (O/M)
Date of decision : 20.11.2015

Amarnath Nagpal

..... Revisionist

Versus

MCF through its Commissioner and another Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Jagdish Manchanda, Advocate,
for the revisionist.

Mr. Parveen Gupta, Advocate,
for respondent.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH, J. (ORAL)

Challenged in the present revision is the order dated 28.5.2014 (Annexure-P-3), passed by the learned Civil Judge (Junior Division), Faridabad, vide which the application filed under Order 6 Rule 17 of Code of Civil Procedure, 1908 (in short 'CPC') by the plaintiff for amendment of plaint, was dismissed.

Briefly stated, a suit for permanent injunction was filed in

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the year 2008 by the plaintiff against MCF authorities. During the evidence of defendant, Sukhvinder Singh, Clerk of defendant MCF appeared and produced the documents Ex.D1 and Ex.D2. The plaintiff thereafter moved an application for amendment of the plaint to challenge these documents, stating that these documents were never produced earlier. The document (Ex.D2) was not found mentioned in the written statement filed by the defendant way back in the year 2008. Vide document (Ex.D2), the defendant claims that it may be allowed to allot passage measuring 46 feet x 9 feet 6 inch to some other persons. Therefore, the said allotment has to be challenged.

After hearing learned counsel for the revisionist, this Court puts a query to learned counsel for respondent as to whether these documents were produced before the lower Court, to which he replied that these documents were not produced, though Ex.D1 was mentioned by letter number in the written statement. The matter came to the notice of the plaintiff for the first time when the defendant produced the same in the evidence. The plaintiff should challenge the document to succeed in the suit. Therefore, the lower Court erred in holding that there was no due diligence on the part of the plaintiff and that amendment cannot be allowed since the trial has commenced.

In view of the fact that these documents were produced

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for the first time during the evidence of the defendant, these are required to be challenged by the plaintiff. Therefore, the amendment has become necessary. There is no lack of due diligence on the part of the plaintiff. Hence, the impugned order is set aside and proposed amendment is allowed. The plaintiff is accordingly permitted to carry out the proposed amendment. The present revision is accordingly allowed.

(KULDIP SINGH)
JUDGE

20.11.2015
sjks