

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 5390 of 2015 (O/M)
Date of decision : 21.8.2015

Rajesh Goel

..... Revisionist

Versus

Mukesh Tayal

..... Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Shilak Ram Hooda, Advocate, for the revisionist.

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)

Impugned in the present revision is the order dated 1.8.2015 (Annexure-P-6), passed by the learned Civil Judge (Senior Division), Gohana, vide which the application of plaintiff (respondent herein) for amendment of the plaint, was allowed.

Briefly stated, the plaintiff had filed a suit for specific performance of the agreement/contract. He also sought decree for permanent injunction and possession. It comes out that before framing of the issues, the plaintiff filed an application to amend the plaint, alleging that at the time of filing the suit, he inadvertently

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could not disclose to his counsel the factum regarding handing over the photocopy of the gift deed dated 11.8.2008, upon which the photo of the property in dispute alongwith the site plan has been specifically shown. Therefore, by way of amendment, the plaintiff wanted to incorporate these facts.

I have heard the learned counsel for the revisionist and have also carefully gone through the file.

The law relating to the amendment of plaint before the starting of the trial is very liberal.

Here, the plaintiff wanted to incorporate the factum regarding the gift deed, on which the site plan of the property in dispute is shown. The plea of the learned counsel for the revisionist is that the amendment is an afterthought. The facts were within the knowledge of the plaintiff when he filed the plaint and the replication and that, now he wants to fill the lacuna. Reliance has also been placed upon the authority of the Hon'ble Supreme Court in Mashyak Grihnirman Sahkari Sanstha Maryadit Versus Usman Habib Dhuka and others, 2013 (3) Law Herald (SC) 2237.

After going through the authority of the Hon'ble Supreme Court in Mashyak Grihnirman Sahkari Sanstha Maryadit's case (supra), I am of the view that the said authority does not lay down the law that if the facts are within the knowledge of the party, the amendment cannot be allowed before the commencement of the

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trial. Here, some facts are sought to be incorporated before the commencement of trial. Even if these were within the knowledge of the plaintiff when the suit was filed, but were not incorporated, the amendment cannot be refused on this ground. No prejudice is caused to the defendant if the said documents alongwith site plan is allowed to be incorporated. Therefore, I am of the view that there is no error in the impugned order. Hence, the present revision is dismissed.

(KULDIP SINGH)
JUDGE

21.8.2015
sjks