

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

279

**CR -5765-2015
DATE OF DECISION:08.12.2015**

DAYAL SINGH AND OTHERS

....Petitioners

VS.

RAJ PAL

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Deepak Sharma, Advocate
for the petitioners.

Mr. Rajiv Sidhu, Advocate
for respondent No.1.

AMIT RAWAL, J. (ORAL)

The petitioners-defendants are aggrieved of the order whereby the application seeking amendment of the written statement has been dismissed.

Mr. Deepak Sharma, learned counsel appearing on behalf of the petitioners submits that due to inadvertence and oversight the certain words were incorporated in the written statement which was sought to be amended by seeking in paragraph 8 and 9 of the written statement and 10 of the reply to the stay application. The said amendment will not amount to withdrawal of the admission.

Mr. Rajiv Sidhu, learned counsel appearing on behalf of the respondent submits that though the trial has not commenced the suit is at initial stage but proposed amendment amounts to withdrawal of the

admission as it completely changes the nature of the defence taken in the written statement.

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

The parameters for allowing the amendment of plaint and written statement are totally different. The application seeking the amendment in para 8, 9 and para 10 of reply to stay application had been immediately moved after filing of the written statement. It has been specifically mentioned that the mistake was due to inadvertence and oversight. It would be apt to reproduce unamended para and amended para which reads thus:-

“(i) Para no.9 of written statement on merits is reproduced as under:-

“That para no.9 of the plaint is wrong and denied. The plaintiff is owner in possession jointly.” The same should be read as “That the para no.9 of the plaint is wrong and denied. The plaintiff is not owner in possession jointly.”

(ii) Para No.8 of written statement sub para (V) on merits is reproduced as under:-

“That this para of the plaint is wrong and denied. The allegations given in this para of the plaint is false and concocted, but fraud has been committed by the defendants, rest of the para is totally wrong and denied.”

The same should read as “That this para of the plaint is wrong and denied. The allegations given in this para of the plaint is false and concocted, No fraud has been committed by the defendants.”

(iii) Para no.10 of reply to injunction application is reproduced as under:-

“That Para no.10 of the plaint is wrong and denied. The answering respondents are owner in possession of the suit property. The alleged release deed has been got executed fraudulently by the plaintiff. The possession of the suit land is with the answering defendant.”

The same should read as “That para no.10 of the plaint is wrong and denied. The answering respondents are owner in possession of the suit property.”

Aforementioned amendment, in my view, do not amount to

withdrawal of the admission and will not change the nature of the defence.

In view of what has been noticed above, the impugned order is set aside. Application for amendment is allowed.

Accordingly, revision petition is allowed.

(AMIT RAWAL)
JUDGE

December 08, 2015.
SwarnjitS