

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 5668 of 2014 (O/M)
Date of decision : 22.9.2015

Bahadur Singh

..... Revisionist

Versus

Harinder Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Sherry K. Singla, Advocate, for the revisionist.

Mr. B.S. Jatana, 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)

Impugned in the present revision is the order dated 16.7.2014 (Annexure-P-6), passed by the learned Civil Judge (Senior Division), Talwandi Sabo, vide which the application of the defendant/revisionist under Order 6 Rule 17 of Code of Civil Procedure, 1908, for amendment of the written statement, was dismissed.

Brief facts of the case are that the plaintiff/respondent herein had filed a suit for recovery of Rs. 2,60,500/- on the basis of pronote and receipt. In the original written statement, it is stated by

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the defendant that the pronote and receipt are forged and fabricated and do not bear his signatures. Thereafter, the issues were framed and when the case was fixed for evidence of the defendant, the present application was filed wherein following amendment is sought to be incorporated in the written statement :-

“That brother of the plaintiff namely Dharam Singh running a Aharat shop in the name and style of Ram Singh Dharam Singh at Raman Mandi the defendant having Ahart with Ram Singh Dharam Singh firm and defendant used to purchase fertilizer, pesticides, tea, Gurh etc. etc. and paid the entire amount at the time of Harhi and Kharif crops. The said Dharam Singh might have obtained signature of the defendant with pretexts that the same was to be produced before the Bank and Income tax office and in the month of November 2008 the defendant left the Ahart with Ram Singh Dharam Singh firm due to strained relations got filed the suit against the defendant through Harmander Singh plaintiff by giving him forged and fabricated pronote that might have obtained by Dharam Singh from him at the time of Ahart relation and the defendant has no concern with the Harmander Singh and the defendant had never visited the shop of the plaintiff nor the defendant purchased any cloth from the plaintiff shop by Cash or credit. The suit is liable to be dismissed.”

The lower Court dismissed the application.

I have heard the learned counsel for the parties and have

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also carefully gone through the file.

Learned counsel for the revisionist has argued that by way of proposed amendment in the written statement, the defendant merely wants to reiterate the stand taken in the legal notice of the plaintiff wherein such plea was raised. By way of proposed amendment in the written statement, the defendant not only wants to admit his signatures on the pronote and receipt, but also wants to explain under which circumstances the signatures were obtained though, the character of the pronote and receipt is still claimed to be forged and fabricated. Learned counsel has relied upon the authorities of the Hon'ble Supreme Court in Abdul Rehman and another Versus Mohd. Ruldu and others, 2012 (4) RCR (Civil) 481 and Usha Balashaheb Swami and others Versus Kiran Appaso Swami and others, 2007 (2) RCR (Civil) 830.

The contention of the learned counsel for the revisionist has been vehemently opposed by the learned counsel for respondent. It has been argued that the trial has commenced. All the facts were within the prior knowledge of the defendant. There is no due diligence on the part of the defendant. It is further stated that the proposed amendment will change the nature of the suit. Reference has been placed on the authority of the Hon'ble Supreme Court in Vidyabai and others Versus Padmalatha and another, 2009 (1) RCR (Civil), 763.

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After going through the facts of the case, I am of the view that by the proposed amendment in the written statement, defendant not only wants to make an admission regarding his signatures, but also wants to plead the circumstances under which the signatures were obtained. Therefore, the proposed amendment will not change the nature of the suit. The Hon'ble Supreme Court in Vidyabai's case (supra) held that the amendment can be allowed, which is necessary for the just decision of the case.

In the present case, though the facts were within the prior knowledge of the defendant and there was lack of diligence, but the amendment is not going to change the nature of suit. The defendant also does not want to lead the evidence. The case is at the stage of evidence of defendant and he does not want to further cross-examine the plaintiff on this point.

It being so, the present revision is allowed. The proposed amendment is allowed to be incorporated in the written statement, subject to payment of Rs. 5,000/- as costs to the plaintiff and further with a condition that defendant will not be allowed to further cross-examine any of witnesses already examined by the plaintiff.

(KULDIP SINGH)
JUDGE

22.9.2015
sjks