

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

**CR No.6136 of 2015 (O&M)
Date of decision: 17.09.2015**

Sucha Singh Sidhu alias Amit Sidhu ... Petitioner

Vs.

Chamkaur Singh ... 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. Shailender Kashyap, Advocate
for the petitioner.

AMIT RAWAL J. (Oral)

The petitioner-plaintiff has challenged impugned order dated 26.08.2015 (Annexure P-1), whereby, the application filed by the respondent-defendant to file fresh written statement on the ground taken therein, has been allowed.

Mr. Shailender Kashyap, learned counsel appearing on behalf of the petitioner-plaintiff submits, that on perusal of the operative part of the impugned order, it tantamounts to de novo trial of the suit, inasmuch already plaintiff's witnesses had been examined by the previous counsel. Therefore, he submits that impugned order, is not sustainable, therefore, liable to be set aside.

I have heard learned counsel for the petitioner-plaintiff and appraised the paper book.

It would be apt to reproduce the operative part of the impugned order, which reads thus:-

“7. So in view of the above said discussion, it is evident that defendant has got right to appear in the present case through power of attorney Subash Chander. At this stage, he has full right to file the written statement afresh. Although the learned counsel for plaintiff has proved on the file that defendant was having knowledge about the pendency of the present case, but in view of the principles of natural justice, as there is no power of attorney or Wakalat Nama in favour of Sh. B.S.Thandi, Advocate, so the opportunity is granted to the defendant to file the fresh written statement and he rectifies all the acts done his previous counsel without his authority on his behalf, so without his knowledge or authority, he may elect to rectify or to disown such acts. If he rectifies them, the same effect will follow as if they had been performed by the authority. Accordingly, the application filed on behalf of defendant Chamkaur Singh is allowed and opportunity is granted to the defendant to file the fresh written statement.”

The apprehension of the petitioner-plaintiff is that the respondent-defendant would be seeking de-novo cross examination of the witnesses, who have already been examined by the previous

counsel, as there is hardly any change in the stand already taken in the new written statement.

The apprehension, in my view, has some force, since the application was moved when all the witnesses of the plaintiff were examined and the case was fixed for the evidence of defendant. In case, if any, such an application is filed by the defendant seeking cross examination of the plaintiff's witnesses, the defendant would be only permitted to cross examine the witnesses to limited point, revised in new written statement. In essence, he would be confining the cross examination in respect of the additional averments made in the written statement which could not be taken in the previously instituted written statement.

With the aforementioned observations, the impugned order is upheld. The revision petition stands disposed of.

(AMIT RAWAL)
JUDGE

September 17, 2015
savita