

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

C.R. No. 6530 of 2015 (O&M)

Date of decision:- 06.10.2015

M/s Swaran Singh & Co. & anr.

...Petitioners

Versus

Assandh Goods Public Carrier Union, Assand & ors.

..Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. R.S. Bajwa, Advocate for
for the petitioner.

RITU BAHRI J.

Petitioner has filed the instant revision petition under Article 227 of the Constitution of India assailing order dated 25.08.2015 passed by learned Civil Judge (Jr. Divn.), Karnal whereby an application under Order 6 Rule 17 CPC for amendment of the plaint filed by the respondent has been allowed.

Plaintiff/Respondent No. 1 filed a suit for declaration/mandatory injunction with consequential relief of permanent injunction praying for cancellation of tender granted in favour of the petitioner. Further prayer was that respondent Nos. 2 to 7 be restrained not to proceed further and not to allot any work of transportation to the petitioner. During the pendency of the suit, the present petitioners enjoyed the tender for complete one year,

whereby the total work of tender was to the tune of Rs.82,62,859/- and as per norms the person in whose favour tender is passed usually earns 20% profit which comes to approximately Rs.16 lacs. Since the plaintiff/respondent No. 1 suffered loss, he filed the impugned application for amendment to seek damages from the petitioner. This application was allowed by observing that since the main relief of the plaintiff has become redundant as one year period of tender is over, the plaintiff has every right to amend his plaint at this stage to incorporate in his plaint the relief of declaration for unliquidated damages. Further, the amendment can be allowed where it is imperative for proper and effective adjudication of the case and it does not cause prejudice to the other side, which can be compensated in terms of money. Reference has been made to a judgment of Andhra Pradesh High Court in a case of **Arasavalli Tehaswari v. Arasavalli Gopala Rao 2011(3) CCC 346** wherein it has been held that to avoid the multiplicity of litigation, the amendment can be allowed for proper adjudication of the case.

Learned counsel for the petitioner has referred to a judgment of Allahabad High Court in a case of **Suraj Prakash vs. Waqf Khudabad Tala Mausooma, 2013(2) CivCC 268** and judgment passed by this Court in a case of **Gurinder Singh v. Gulzar Singh and others, 2015(1) SCC 584** to contend that the

amendment should not have been allowed as it will change the entire context and texture of the plaint. Learned counsel further contends that once the tender allotted to the petitioner had been completed, respondent No. 1 at best could file a fresh suit for seeking damages, if any and the present application at a belated should not have been allowed as it will change the nature of suit. In the original suit, the prayer of the plaintiff was to the effect that tender could not be allotted to the petitioner, as he did not fulfill the requisite criteria.

The argument of learned counsel is liable to be rejected on the ground that since during the pendency of the suit, the tender allotted to the petitioner had been completed, the necessary amendment sought by the plaintiff, has rightly been allowed. Moreover, even if the contract period had come to an end, during the pendency of the trial, the plaintiff could file a suit for damages within 3 years. To avoid multiplicity of litigation, his application has been allowed.

In view of the above, the revision petition is dismissed being devoid of any merit.

October 06, 2015
G Arora

(**RITU BAHRI**)
JUDGE