

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 6723 of 2015(O&M)
Date of decision : October 9, 2015

Jai Bhagwan

..... Petitioner

Versus

Diksha and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Sumit Gupta, Advocate
for the petitioner.

1. Whether reporters of local papers may be allowed to see the judgment ?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

Amit Rawal, J (oral).

The challenge in the present petition is to the impugned order dated 14.9.2015 (Annexure P-6) whereby the application filed under Order 6 Rule 17 seeking amendment of the written statement at the behest of the petitioner-defendant has been declined.

Learned counsel appearing on behalf of the petitioner submits that the amendment sought is most innocuous. Though, the application has been filed at the fag end of the trial but the amendment sought is essential and necessary for adjudication of the suit, inasmuch as, that the suit has been filed by the minor daughter through maternal uncle Suresh Kumar against the father

and sister of the father.

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

The amendment sought to incorporate in the written statement is to the extent that both the minor daughters are stated to be residing with the mother-Reena Devi, therefore mother being the best guardian was entitled to institute the suit not the uncle. Since there is already separation between mother Reena Devi and father-Jai Bhagwan. The petitioner-defendant is being harassed by wife -Reena Devi through minor daughters.

In my view, the plea sought to be incorporated in the written statement viz-a-viz that both the minor daughters are living with the mother would not lead to any logical conclusion in the adjudication of the suit, for, the suit at the behest of any guardian can be filed by either duly appointed guardian or by next friend.

The petitioner-defendant would be well within his right to raise all the pleas with regard to maintainability of the suit at the stage of final arguments and not in the manner as has been chosen. The trial court also noticed that the petitioner-defendant has also filed application under Order 7 Rule 11 CPC on the similar grounds. The same was declined.

In my view, the application seeking amendment was wholly mis-conceived and an attempt to delay the decision of the suit.

I do not intend to differ with the finding rendered by the trial court which is based on appreciation of oral and documentary evidence. I do not find any illegality and perversity in

the impugned order and the same cannot be said to have been passed without jurisdiction.

The revision petition is devoid of merits. Accordingly the same is dismissed.

It is expected that the court shall not be influenced by reasons assigned while declining the application under Order 7 Rule 11 CPC.

(AMIT RAWAL)
JUDGE

October 9, 2015
archana