

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 7306 of 2014 (O/M)
Date of decision : 24.8.2015

Pardeep Singh and others

..... Revisionists

Versus

Surjit Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Sunil Kumar Jain, Advocate, for the revisionists.

Mr. D.S. Gurna, Advocate, for respondents.

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 16.9.2014 (Annexure-P-8), passed by the Civil Judge (Junior Division), Dera Bassi, vide which an application filed by defendants under Order 6 Rule 17 of Code of Civil Procedure, 1908, seeking amendment of the written statement, was dismissed. By way of amendment, the defendant wanted to raise the objection that the suit is barred under Section 41 (h) of the Specific Relief Act and that the plaintiff is barred by his act and conduct from filing the suit. The

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defendant also wanted to amend para-1 of reply on merits to plead certain facts to the effect that he was put into possession of the said land by their vendor and that 2 biswas of land out of the said land has been acquired by the National Highway Authority of India and he was granted compensation. He also wanted to explain some other facts.

I have heard learned counsel for the parties and have also carefully gone through the file.

The lower Court had noticed that plaintiff has already concluded his evidence. This is second application filed by the defendant for amendment of the written statement. Earlier also, the defendant moved an application for amendment of the written statement, which was allowed. The lower Court has also observed that the witnesses of the plaintiff have already been cross examined at length. If the amendment is allowed, defendants would get another chance to cross examine the plaintiffs' witnesses, which might result in revocation of admissions made in the evidence.

I am of the view that when the trial has started, the amendment of the pleadings cannot be allowed in routine. It may be allowed only on the ground that inspite of due diligence, the parties have not raised the matter before the commencement of the trial. In the present case, the sale deed is with the defendant and if he wanted to take specific line of pleadings in the written statement, it

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was very well within his specific knowledge. All the facts sought to be mentioned in para-1 were within the specific knowledge of the defendant. The other amendment is regarding legal plea, which could otherwise be addressed at the time of arguments. Earlier also, the defendant had amended the written statement and if at all, he wanted to plead some more facts, he could have pleaded same facts in the first application. It is not that when the first application for amendment of the written statement was moved, the facts sought to be produced on file were not within the knowledge of the defendant. It being so, I do not find any illegality or infirmity in the impugned order. Hence, the present revision is dismissed.

(KULDIP SINGH)
JUDGE

24.8.2015
sjks