

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

CR No.757 of 2012

Date of decision: 27.08.2015

Shashi Rani

... Petitioner

Vs.

Urmila Devi and others

... Respondents

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. J.K. Goel, Advocate
for the petitioner.

Mr. Kartik Gupta, Advocate, for
Mr. Ankit Aggarwal, Advocate
for the respondent.

AMIT RAWAL J. (Oral)

Challenge in the present petition is to the impugned order dated 20.01.2012, whereby, the application filed under Order 6 Rule 17 read with Section 151 of the CPC, seeking amendment of the written statement has been allowed.

Mr. J.K.Goel, learned counsel appearing on behalf of the petitioner-plaintiff submits that he confines his prayer to the amendment sought in paragraph Nos.6 and 7 of the written statement, as on going through the bare reading of the amendment, it tantamount to withdrawal of the admission, therefore, the trial Court has committed illegality, infirmity, much less, perversity and the order

has been passed without jurisdiction.

Mr. Kartik Gupta, learned counsel appearing on behalf of the respondent submits that the amendment sought to be incorporated in the written statement is explanatory and clarificatory in nature and it does not tantamount to withdrawal of the admission.

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

On going through the amendment sought to be incorporated in paragraph Nos.6 and 7, nowhere, it is revealed that amendment sought, tantamount to withdrawal of the admission. For the sake of brevity, un-amended and amended paragraph Nos.6 and 7 of the written statement are extracted herein below:-

Un-amended

“6 That this para of the plaint is replied that each and every thing was in the knowledge of the plaintiff. The plaintiff never signed the writing of redemption. Moreover, the redemption was required under the law, either by executing the redemption deed or under the Punjab Redemption of Mortgages, Act. The Original Mortgage Dee has been supplied to the plaintiff, after receipt of notice of the suit.

7. That this para of the plaint is not concerned with the defendant in any manner. It is correct that about the Civil Court Decree was told to the plaintiff. In fact, defendant

No.2 was the master mind behind the show.”

Amended

4. That in para No.6 after deleting the complete para of the written statement the applicants-defendants wants to add: That the contents of para No.6 of the plaint are correct to the extent that Roshan Lal expired on 18.01.2005. The plaintiff or her husband were well aware this fact that the property in question was redeemed by Roshan Lal who was father in law of plaintiff, answering defendant No.1 and father of answering defendant No.2. Roshan Lal thereafter suffered a civil court decree dated 7.10.1992 passed in civil suit No.732 of 1992. The said decree was suffered rightly by late Sh. Roshan Lal in favour of answering defendant No.3 and defendant No.2. The plaintiff has cooked up a false and concocted story with a view to extract the money. The fact is that she was well aware of this fact that the redemption of land was made by Roshan Lal during his life time due to this reason she has not filed the present suit during the life time of late Sh. Roshan Lal and she never challenged the redemption of mortgage deed as well as the decree part in civil suit no.732 of 1992 decided on 7.10.1992. The plaintiff is nothing to do with the suit property and she is harassing the answering defendants with collusion of her

husband.

5. *That in para No.7 after deleting the original all lines of para No.7 of the written statement, the applicants-defendants wants to add: That the contents of para No.7 of plaint are wrong and denied. It is wrong to say that the signature of the plaintiff were forged by some persons personating as plaintiff. It is wrong to say that all the defendants have forged the receipt at the back of the mortgage deed with mala fide intention to grab the property of the plaintiff in connivance with deceased Roshan Lal. The story put forwarded by the plaintiff in this para are false and after thought. No forgery has been made by the answering defendant. The receipt is genuine one.”*

From perusal of amendment, allowed by trial Court, to be incorporated does not amount to withdrawing of admission, rather it is clarificatory and explanatory in nature. Moreover, respondent-defendants have suffered a statement, that they will not cross-examine the plaintiff and will not lead any fresh evidence. Dehors of the fact that the application was filed at the fag end of the trial, but the fact remains, that the respondent-defendants are not asking for dehors trial, thus, in my view, no prejudice has been caused to the petitioner.

Keeping in view the aforesaid observations, the impugned

order does not suffer from any illegality, much less, perversity and cannot be said to be passed without jurisdiction.

There is no merit in the revision petition.

Accordingly, the same is hereby dismissed.

(AMIT RAWAL)
JUDGE

August 27, 2015
savita