

C.R No.7945 of 2015

KUMAR MANOJ
#1# 15.12.14 15:47
I attest to the accuracy and
integrity of this document

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

C.R No.7945 of 2015

Date of Order: 10.12.2015

Pramod Kumar and Ors.

....Petitioners

Versus

Gagan and Ors.

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Raman Sharma, Advocate for the petitioners.

Mr. Mohd. Yousaf, Advocate for the respondents.

ARUN PALLI, J (ORAL)

Vide order being assailed, dated 27.07.2015, application moved by the respondents-plaintiffs under Order 6 Rule 17 CPC seeking amendment in the plaint had since been allowed as also an order dated 09.11.2015 vide which the defence of the petitioners-defendants had since been struck off, for, he failed to file the written statement to the amended plaint.

It would be apposite at this juncture to refer to the order dated 27.07.2015 and the same reads as under:

“1. Heard on the application under Order VI Rule 17 read with Section 151 CPC for amendment of plaint filed by plaintiff. It is averred in the application that the proposed amendment is necessary for the just and fair decision of the present case.

2. Upon notice a reply has been filed in which the contents of the application have been vehemently refuted, coming up the prayer for

dismissal of the same.

3. Ld. Counsel for plaintiff argued as per plea taken by the plaintiff. However, Ld. Counsel for defendant has not advanced arguments on the instant application. Accordingly, I am deciding the instant application accordingly.

4. I have perused the record. Keeping in view the fact that plaintiff is master of his case and no prejudice will be caused to the defendant, if the instant application is allowed. Consequently, present application is allowed. Let file be put up on 01.09.2015 for filing amended plaint."

Ex-facie, the afore reproduced order is judicially perverse and cryptic, as it does not even indicate as to what was the nature of the proposed amendment and what bearing would it have on the matter in issue.

That being so, order dated 27.7.2015 cannot be sustained.

Accordingly, the revision petition is accepted and the order dated 27.07.2015, as also the order dated 09.11.2015 are set aside. The matter is remitted to the trial Court to re-consider the application moved by the respondents-plaintiffs for an amendment, which shall be decided strictly in accordance with law. Needless to assert, this order shall not constitute any expression of opinion on merits of the claim of either party.

December 10, 2015
manoj

(ARUN PALLI)
JUDGE