

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

CR No.8078 of 2015.

Date of Decision: 01.12.2015.

Nachattar Singh

....Petitioner.

VERSUS

Sushil Kumar and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Saurabh Arora, Advocate for the petitioner.

SNEH PRASHAR, J.

Petitioner-plaintiff No.1 has filed this revision petition under Article 227 of Constitution of India assailing the order dated 14.10.2015 passed by Civil Judge (Junior Division), Rajpura whereby applications filed by the defendants-respondents No.1 to 3 and 4 under Order VI Rule 17 of the Code of Civil Procedure (for short, "the Code") seeking amendment in the written statement were allowed.

A suit for specific performance of agreement of sale dated 05.01.2006 in respect of land measuring 32 Bighas (detail of which was given in the head note of the plaint) situated in the revenue estate of village Dhamanheri, Tehsil Rajpura, District Patiala, said to have been executed by

the respondents-defendants, was filed by the petitioner and two other persons, namely Bhupinder Singh and Ramesh Kumar. They also challenged the sale deed executed by defendant No.1 in favour of his sister-defendant No.4 on 22.03.2011. On notice of the suit, the respondents-defendants appeared and contested the suit. They filed written statement raising numerous legal and factual preliminary objections. Subsequently, before issues on the rival contentions of the parties could be framed, the defendants filed two applications for amendment of written statement alleging that they had explained all facts and handed over all documents to Advocate Shri L.S. Bhangu, engaged by them and he had obtained their signatures on some blank papers. Their counsel filed the written statement in the Court and gave photocopies of the same to them. On going through the written statement filed, they came to know that the same was not as per the actual situation explained by them. Accordingly, they sought permission to amend the written statement so that the true and complete facts could be pleaded.

Petitioner-plaintiffs contested the application pleading that the story now being sought to be presented by the defendants is nothing but a concoction and result of an afterthought.

Considering the submissions made by learned counsel for the parties, learned trial Court allowed the applications of the respondents. Aggrieved by the order dated 14.10.2015, the petitioner has filed the instant revision petition.

Learned counsel for the petitioner argued that by way of

amendment, the defendants in fact intend to withdraw the admissions made by them which will go to the root of the case and will change the entire complexion of the written statement. Otherwise also, the facts which were in the knowledge of the defendants but were not intentionally incorporated in their written statement cannot now be pleaded by way of amendment. To support his argument, learned counsel relied upon **Sandeep Kumar and others vs. Ravinder Sharma and others, 2012(4) CCC 763** and **S. Malla Reddy vs. M/s Future Builders Co-operative Housing Society & ors., 2013(2) RCR 957 (SC).**

In *Sandeep Kumar's* case (supra) the application for amendment was filed when the case was at the stage of rebuttal evidence and final arguments. In *S. Malla Reddy's* case (supra) the application for amendment was filed after about 13 years when the hearing in the suit had already commenced. The case in hand is on a completely different footing. It could not be explained by learned counsel for the petitioner that by seeking amendment in pleadings the respondents intend to withdraw the admissions made by them. In fact, the amendment being sought appears to be of explanatory nature. The defendants want to put forth the facts based on documents. Needless to say that the law of amendment in respect of written statement is very liberal.

As held by Hon'ble Supreme Court in *Baldev Sing vs. Manohar Singh, 2006(3) Law Herald 2324* amendment in written statement can be allowed to even take inconsistent plea which may not be allowed in case of a plaint. It was also held that it is open to a party to

explain admission by seeking amendment in written statement. In case it becomes necessary to make clarification of facts in the written statement it can be so done by seeking amendment especially when the case is at the initial stage.

The defendants in the present case submitted that their counsel did not file the written statement as per the factual position intimated by them. By way of proposed amendment they are stating/clarifying some admitted facts. The case is still at the initial stage as even the issues have not been framed so far.

Thus, finding that learned trial Court had rightly allowed the applications of the defendants for amendment in the written statement and there being no adversity or perversity in the order warranting intervention, the petition is hereby dismissed.

(SNEH PRASHAR)
JUDGE

01.12.2015.
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