

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 895 of 2013
Date of decision : November 2, 2015

M/s Anand Textiles

..... Petitioner

Versus

Fateh Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Ashish Aggarwal, Advocate
for the petitioner.

Mr. Dinesh Mahajan, Advocate
for the respondent.

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 petitioner-plaintiff is in revision petition against the impugned order whereby the application filed on behalf of the respondent-defendant seeking amendment of the written statement has been allowed.

Learned counsel appearing on behalf of the petitioner submits that the suit for specific performance of agreement to sell dated 8.7.2005 was filed in the year 2005. The application seeking amendment in the written statement at the behest of the respondent-defendant was sought at the stage when the case was listed for defendant's evidence. He submits that in case, the amendment is allowed, the petitioner-plaintiff would also have to seek amendment in the plaint by challenging the sale deed and as well as

impleading subsequent vendee. Thus, it would not only delay the adjudication of the suit but leads to a protracted litigation.

He further submits that after the Code of Civil Procedure was amended in the year 2002, the amendment can only be permitted before the issues were framed. Thus, the impugned order suffers from illegality and perversity.

Mr. Dinesh Mahajan, learned counsel appearing on behalf of the respondent-defendant submits that the property had been sold prior to filing of the suit seeking specific performance of agreement to sell in question and therefore, it is essential and necessary for adjudication of the *lis* between the parties seeking indulgence of the Court that factum of selling of the land was in knowledge but due to inadvertence the same could not be incorporated. Even otherwise, if the amendment is allowed, no harm/pre judice would be caused to the petitioner-plaintiff.

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

The application seeking amendment of the written statement is wanting material i.e. particulars of the sale deed vide which the suit property is alleged to have been sold prior to filing of the suit. But in my view, there is some substance/force in the plea of learned counsel for the petitioner that assuming for an argument sake that the suit of the petitioner-plaintiff succeeds, he would face the delay of execution of the decree as the subsequent vendee would come out with third party objection. In order to prevent such an eventuality, I am of the view that in case, the amendment is

permitted to be allowed, the petitioner would have also a cause of action to seek amendment of the plaint by seeking relief of declaration challenging the sale deed, the particulars of the same shall be disclosed by the defendant, as well as seek impleadment of the subsequent vendee.

With the aforementioned observation, 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.

(AMIT RAWAL)
JUDGE

November 2 , 2015
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