

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 8514 of 2014
Date of decision : September 8, 2015

Manjit Singh

..... Petitioner

Versus

**Chairman and Managing Director, Punjab State Power
Corporation Ltd.and others**

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. APS Rehan, , Advocate
for the petitioner.

Mr. Sehaj Bir Singh, Advocate
for the respondents.

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 challenge in the present petition is to the impugned order dated 2.12.2014 (Annexure P-2) whereby the application filed under Order 6 Rule 17 CPC seeking amendment to the plaint at the stage of the defendant's evidence has been dismissed.

It has been submitted that the petitioner-plaintiff was not aware of the order dated 24.9.2008 bearing endorsement No. 410 dated 24.9.2008 passed by Senior XEN. P.S.P.C.L.and after having acquired the knowledge of the same, sought amendment to

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claim the declaration in the relief clause as well as head note, and by incorporating paragraph 3-A of the plaint.

It has further been submitted that the amendment would not alter the cause of action, much less nature of the suit and adjudication between the parties to the *lis*. The suit had been filed for declaration to the effect that impugned action of the defendants in not completing the service book as well as non-grant of annual increments after the year 2002 being illegal.

He further submits that the law of amendment is liberal and should not come in the way of the plaintiff, even if the trial has commenced as the petitioner acquired knowledge of the order when the written statement was filed, much less answered.

Mr. Sehaj Bir Singh, learned counsel appearing on behalf of the respondents submits that the factum of the order sought to be challenged by way of amendment was disclosed in the written statement, but the plaintiff did not choose to challenge the same and filed an application only in the month of April, 2013 when the case reached the stage of defendant's evidence, therefore, the trial court has rightly declined the application.

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

Admittedly, the written statement disclosed the factum of passing of the order dated 24.9.2008 bearing endorsement No. 410 dated 24.9.2008. However, the plaintiff woke up from the slumber in the year 2013. Nothing prevented the petitioner to seek amendment of the plaint earlier. In essence, the aforementioned

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order was in existence at the time of filing of the suit.

There is another aspect of the matter that during the pendency of the suit an application under Order 11 Rule 14 CPC was filed seeking production of documents from the respondents but there was no mention of the aforementioned documents sought to be pleaded, by way amendment.

In my view, the trial court has not committed any illegality in declining the application, particularly, when the trial has commenced and reached the stage of defendant's evidence.

The revision petition is devoid of merits and the same is accordingly dismissed.

**(AMIT RAWAL)
JUDGE**

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