

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

C.R. No. 1432 of 2015

Date of decision : 24.09.2016

Surinder Singh

....Petitioner

V/s

Punjab State Electricity Board now PSPCL & ors.

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. D.K. Sharma, Advocate for
Mr. S.S. Siao, Advocate for the petitioner.

Mr. Ram Pal Verma, Advocate for respondent no. 3.

RAJAN GUPTA J.

Prayer in this revision petition is for setting aside order dated 05.05.2014, Annexure P-3 passed by Civil Judge (Junior Division), Ludhiana whereby applications filed by petitioner for amendment in the plaint and for additional evidence has been rejected.

Learned counsel for the petitioner has contended that trial court has erroneously rejected his plea. Petitioner only wants to clarify the stand. According to him, amendment needs to be allowed as it would not change the nature of suit in any manner. Thus, impugned order deserves to be set-aside.

Learned counsel for respondent no. 3 has opposed the plea. He submits that application has been filed at a belated stage and petitioner only wanted to delay the proceedings before the trial court. According to him, applications filed by petitioner are frivolous in nature.

I have heard learned counsel for the parties.

It appears that plaintiff filed a suit for permanent injunction to restrain the defendants from shifting the electricity meter from agricultural land comprising in Khasra no. 81/25/1 and also to restrain them from disconnecting the same. Suit was instituted in the year 2009. During the pendency of suit, respondent no. 3 by virtue of affidavit dated 10.03.2010 got the electric meter shifted in his name. As a result petitioner moved application under Order 6 Rule 17 CPC for amendment to seek the relief of declaration and mandatory injunction for the events subsequent to the filing of the suit. He also moved an application for additional evidence to place on record affidavit dated 16.03.2010 of respondent no. 3 in which he had admitted transfer of the connection in dispute in his name. Vide common impugned order dated 05.05.2014, trial court has rejected both the pleas observing that applications for amendment as well as additional evidence were moved at a highly belated stage. This apart, amendment as sought by the petitioner was very much in his knowledge earlier also and moreover trial has not only commenced but is at the stage of defendant evidence. I find no legal infirmity with the order. It appears that petitioner moved the applications for amendment and additional evidence merely to delay the proceedings. Besides, trial is nearing culmination. Petitioner has not been able to show that pleas now sought to be taken could not be taken earlier despite due diligence. Thus, proviso to Order 6 Rule 17 would be attracted. There is no ground to interference in revisional jurisdiction. Dismissed.

September 24, 2016

Ajay

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No