

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 1798 of 2016
Date of decision : March 10, 2016

M/s S. A. Shipping and Forwarding

..... Petitioner

Versus

M/s Freight Systems(India) Pvt. Ltd.and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Vivek Chauhan, Advocate
for the petitioner.

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-defendant No.1 is aggrieved against the dismissal of application seeking amendment of the written statement at the stage of defendant's evidence.

Learned counsel for the petitioner submits that in paragraph 3 of the written statement (Annexure P-2) it was mentioned that the goods were intended to be purchased by defendant No.1, however, in the amendment sought to be incorporated the defendants want to replace the work 'defendant No.1 with defendant No.2' and further wanted to incorporate the following amendment:-

“7. That there are certain clerical and typographical mistakes in para no.3 and 5 on merits of the written

statement which requires amendment. In para no.3 the applicant wants to replace the words 'defendant no.1' to "defendant no.2" before the words "matter of record that the" and wanted to add after the word 'hired by the defendants' following words.

No.2 through defendant no.1 who acted as mediator between defendant no.2 and plaintiff without any consideration and without anything in writing" and after the words 'accepted the instructions of the defendants' to add "No.2".

In para No.5 in line no.18 after the words 'duly received by defendant no.2' the following line is to be added.

"Wrongly raised on defendant No.1 by plaintiff and the same are illegal, void and against the provisions of law and do not create any liability to pay any amount under the alleged invoices"

And in the end of para no.5 to add the following lines:

"If any freight charges are to be paid it is to be paid by defendant no.2 who had hired the service of the plaintiff i.e. destination agent of principal carrier M/s Shenzhent Ocean Logistics Co.Ltd. There is no privity of contract of any kind between defendant no.1, earlier M/s Shenzhent Ocean Logistics Co.Ltd., plaintiff and defendant no.2."

8. That the proposed amendment will not change the nature of case. No prejudice shall be caused to the plaintiff if the sought amendment is allowed.

9. That it is in the interest of justice and equity and for the proper adjudication of the matter pending before your honour that the amendment sought for in the written statement be allowed."

Thus, it is essential and necessary to be incorporated and the amendment is illustrative in nature.

I have heard learned counsel for the petitioner and appraised the paper book and of the view that there is no merit in the revision petition as the amendment sought to be incorporated tantamounts to withdrawal of the admission which cannot be permitted at the stage of suit. Even otherwise, there is no averment in the application that there is compliance of provisions of Order 6 Rule 17 CPC "despite exercise of due diligence". Thus, the application is lacking the statutory requirement of law and rightly so the same has been dismissed by the trial court.

I do not find any illegality and perversity in the impugned order and the same cannot be said to have been passed without jurisdiction as the amendment sought to be incorporated tantamounts to withdrawal of the admission, circumstances of which have not been explained.

The revision petition is devoid of merits. Accordingly the same is dismissed.

(AMIT RAWAL)
JUDGE

March 10, 2016
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