

**In the High Court of Punjab and Haryana, at Chandigarh**

**Civil Revision No. 44 of 2014**

**Date of Decision: 14.01.2016**

Meera Gupta and Others

... Petitioner(s)

Versus

Babu Lal and Others

... Respondent(s)

**CORAM: Hon'ble Mr. Justice Shekher Dhawan.**

1. Whether reporters of local newspapers may be allowed to see judgment? Yes
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest? Yes

Present: Mr. G.S.Gandhi, Advocate  
for the petitioners.

Ms. Pratibha Yadav, Advocate  
for respondents No.2 & 3.

**Shekher Dhawan, J.**

Present petition is against order dated 19.11.2013, whereby application under Order 6 Rule 17 read with Section 151 CPC, filed by defendant No.2 for filing the amended written statement was accepted.

Relevant facts arising out of the present petition are that the plaintiff had filed suit for declaration and injunction against the defendants that Will dated 7.9.1998, executed by Smt. Asrfi Devi (since deceased) in favour of defendants No.1 to 7 regarding the suit property is illegal, null and void and not binding upon the rights of the plaintiff. Thereafter, defendant No.2 filed his written statement along with defendant No.1. The defendant No.1 got signatures of defendant No.2 on blank papers. Thereafter, defendant No.2 did not visit the Court nor engaged any Advocate to file the written statement and later on

engaged some other counsel and defendant No.2 wanted to incorporate these facts by way of application under Order 6 Rule 17 CPC.

In the reply filed by the plaintiff/respondent, plea was taken that defendants No.1 & 2 had already submitted their written statements through their counsel and defendant No.2 could not take his admissions back and they cannot take a new plea in the written statement. The defendant No.2 wanted to file new written statement which cannot be allowed as he cannot be allowed to withdraw his earlier written statement by substituting a new written statement.

Learned counsel for the petitioner submitted that as per summoned record, on 25.7.2009 statement of Ashok Kumar as well as Babu Lal and others were recorded to the effect that Panna Lal was taken from the Court by his wife and son. As such, this amendment should have not been allowed to be incorporated in the pleadings.

Learned counsel for the respondents submitted that undisputedly Ved Parkash, defendant No.3 was not signatory to the compromise and the written statement. On 25.7.2009, neither Panna Lal nor Ved Parkash were present in the Court nor they have ever made any statement before the Court and it cannot be said under any circumstances that Panna Lal and Ved Parkash had made any statement in favour of the plaintiffs creating valuable rights in their favour and the same cannot be allowed to be withdrawn by way of proposed amendment. So the application was rightly allowed by the Court below and the present petition be dismissed.

Having considered the submissions made by learned counsel for the parties, this Court is of the considered view that amendment in the pleading should be allowed at the trial stage by taking liberal interpretation so as to give finality to the litigation. Undisputedly there is a legal bar for allowing amendment of pleadings if the same amounts to withdrawal of any admission statement having been made in favour of other party. In the present controversy, it is to be seen whether any admission statement was made in favour of

present petitioner at any stage or not. If the entire case of the petitioner is taken into consideration, on 25.7.2009 Ashok Kumar as well as Babu Lal and others made statement in the Court that Panna Lal was taken from the Court by his wife and son. Meaning thereby, Panna Lal had not made any statement before the Court admitting anything in favour of anybody including the present petitioner. Ved Parkash, who is defendant No.3 in the suit, had never made any statement nor he was signatory to any compromise or written statement. The same cannot be considered to be withdrawal of any admission having been made in favour of the present petitioner. Otherwise, the Court below has rightly allowed the application for amendment under Order 6 Rule 17 CPC and the petitioner shall have right to rebut the said contention by way of filing replication, if any, and by leading evidence as well. However, the present petition for setting aside order dated 19.11.2013 is without any merit and the same stands dismissed.

**(Shekher Dhawan)**  
**Judge**

**January 14, 2016**

"DK"