

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND  
HARYANA AT CHANDIGARH

C.R. No.4827 of 2016

Date of Decision.30.09.2016

Ravinderjit Kaur and another

.....Petitioners

Vs.

M/s Shahanshah Fashions Pvt. Ltd. and others

.....Respondents

Present: Mr. Namit Gautam, Advocate  
for the petitioners.

Mr. Narinder Kumar Vadehra, Advocate  
for the respondents.

-. -

**AMIT RAWAL J. (ORAL)**

The petitioners-defendants are aggrieved of the impugned order whereby the application for seeking amendment of the written statement has been allowed in part by allowing amendment to the extent of word “plaintiffs” instead of “defendants” but elaboration of the averments in para 9 of the preliminary objection has been rejected.

Mr. Namit Gautam, learned counsel appearing for the petitioners-defendants submits that the amendment does not alter the nature of the defence in suit for permanent injunction as it would help the Court for adjudication of the suit, much less, does not tantamount to withdrawal of the admission. The suit is at initial stage, even issues have not been framed, thus, urges this Court for setting aside the order under challenge by allowing the revision petition.

Mr. Narinder Kumar Vadehra, learned counsel appearing for respondent No.1 submits that the amendment will definitely tantamount to withdrawal of the admission. The petitioners-defendants were aware of the  
aforementioned fact. No explanation has come forth for bringing the

amendment within the expression “despite exercise of due diligence” and therefore, rightly so, the application has been rejected, thus, urges this Court for confirming the order under challenge.

I have heard learned counsel for the parties, appraised the paper book and of the view that amendment sought, as noticed above, does not tantamount to alter the nature of defence, much less, withdrawal of the admission but elaborate the averment already taken in paragraph 9 of the preliminary objection whereas the amendment has to be incorporated after 8<sup>th</sup> line of para 9 of the preliminary objection, particularly when the suit is at the initial stage, even issues have not been framed. The respondents-plaintiffs shall have right to rebut the same by filing rejoinder. The parties will be able to prove their respective stands while leading evidence but the amendment sought is most innocuous.

For the foregoing reasons, the application for amendment is allowed in toto and the order under challenge is set aside. The revision petition is accordingly allowed subject to payment of costs of ₹5000/-. If the amount is not paid as directed, the order passed by the Court below shall stand restored.

**(AMIT RAWAL)**  
**JUDGE**

**September 30, 2016**  
Pankaj\*

Whether reasoned/speaking      Yes

Whether reportable      No