

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No.486 of 2015

Date of Decision: August 03, 2016

Sukhchain Singh

---Petitioner

versus

Surjit Kaur

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Kamal Narula, Advocate
for the petitioner.

Ms. Natasha Munjal, Advocate
for the respondent.

Rekha Mittal, J.(Oral)

The present petition has been directed against order dated 14.11.2014 passed by the Civil Judge (Junior Division), Ferozepur whereby application filed by the petitioner/defendant for amendment of the written statement by invoking Order 6 Rule 17 of the Code of Civil Procedure, 1908 (in short 'CPC') has been dismissed.

Counsel for the petitioner has submitted that by way of the proposed amendment, the petitioner wanted to add that factum of execution of the transfer deed by the respondent/plaintiff in favour of the plaintiff was to the knowledge of Bakshish Singh, his brother as well as legal heirs of his another brother namely Balbir Singh who came to Tehsil office and were putting pressure upon the respondent/plaintiff not to execute the transfer deed in his favour. It is further submitted that as no prejudice would be

caused to the respondent/plaintiff if the proposed amendment is allowed when otherwise the law with regard to amendment of written statement is more liberal than that of a plaint, the trial Court has committed a serious error rather illegality in dismissing his application. In addition, it is submitted that any delay attributable to the petitioner in approaching the Court for amendment can well be compensated by payment of costs to the adversary.

Counsel for the respondent/plaintiff has supported the impugned order with the submissions that the learned trial Court, on a detailed consideration of various aspects involved, has rightly dismissed the application.

I have heard counsel for the parties, perused the paper book particularly the application for amendment of the written statement and order impugned.

Before advertng to the submissions made by counsel for the parties, it is pertinent to note that the present suit has been filed by Smt. Surjit Kaur, mother of the petitioner, to challenge transfer deed dated 17.06.2011 in respect of land measuring 24 kanals on the premise that the same is the result of fraud and misrepresentation committed by the petitioner/defendant and thus, the same is wrong, illegal, void and without consideration.

The learned trial Court, besides after taking into consideration implications of proviso appended to Rule 17 of Order 6 CPC has held that the petitioner has failed to satisfy as to how the proposed amendment is necessary for complete and effectrive adjudication of the matter in

controversy.

Counsel for the petitioner, despite a specific query raised by this Court, has failed to successfully challenge correctness of observations made by the trial Court in this regard. That being so, I do not find any error much less illegality in the impugned order warranting intervention.

For the foregoing reasons, the petition fails and is accordingly dismissed. However, nothing stated in this order shall prejudice either of the parties at the time of final disposal of the suit on merits.

(Rekha Mittal)
Judge

August 03, 2016
'D.Gulati'

Whether Speaking/Reasoned : Yes/No

Whether Reportable : Yes/No