

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

**CR No.56 of 2016 (O&M)**

**Decided on: 01.04.2016**

Bhan Singh

....Petitioner

Versus

M/s. Creative Buildwell Private Limited

....Respondent

**CORAM: HON'BLE MRS JUSTICE REKHA MITTAL**

**Present :** Mr. Sumit Gupta, Advocate  
for the petitioner.

Mr. Gaurav Chopra, Advocate  
for the respondent.

**REKHA MITTAL, J.**

The plaintiff is in revision against the order dated 01.12.2015 passed by the Civil Judge (Junior Division), Sonapat, dismissing application for amendment of the plaint.

Counsel for the petitioner would submit that as some of the facts mentioned in para 2(b) of the application for amendment came into existence during pendency of the proceedings, the petitioner may be permitted to amend the plaint to incorporate these facts. It is further argued that the petitioner is ready to return the cheque in question but the respondent/defendant is still pursuing a suit filed for claiming damages.

Counsel for the respondent has supported the impugned order with the submission that application for amendment is a

mischievous attempt on the part of the petitioner to raise allegation *qua* cheating knowing fully well that his suit for declaration to avoid the sale deed executed by him may not hold good on the basis of allegations raised in the plaint. It is further argued that the learned trial Court has rightly dismissed the application keeping in view the implications of proviso appended to Rule 17 of Order 6 of the Code of Civil Procedure (in short 'CPC'). In addition, it is submitted that the present application was filed by the petitioner after availing number of opportunities for adducing evidence. Counsel has further submitted that so far as issuance of two cheques bearing No.534711 dated 27.04.2006 for Rs.18,00,393/- and No.534712 dated 27.08.2006 for Rs.1,03,26,895/- drawn on Punjab National Bank, Civil Lines, Delhi and payment of an amount of Rs.20,000/- in cash is concerned, there is no dispute between the parties in regard thereto. The respondent/defendant has not denied that cheque No.534712 dated 27.08.2006 for Rs.1,03,26,895/- was dishonoured on its presentation with the bank but the respondent has already explained his position in regard thereto by filing a detailed written statement. According to counsel, any typographical error while describing particulars of the cheque(s) needs no correction as the cheques in question would be a matter of record. So far as the order passed by this Court in CRM-M No.29787 of 2013 decided on 16.01.2015, the respondent would not raise any objection if the said order is produced by the petitioner/plaintiff and is further taken into consideration for decision of the suit.

I have heard counsel for the parties, perused the records but find no merit in the petition.

The petitioner in para 2(a) of the application has sought to add by way of amendment that the defendant issued the cheque (referring to cheque No.534712 dated 27.08.2006 for Rs.1,03,26,895/-) with an intention to cheat the plaintiff, got executed sale deed in his favour and payment of the cheque was stopped by the plaintiff later after execution of the sale deed. Counsel for the petitioner is not in a position to convince the Court as to why the petitioner could not raise allegation *qua* cheating despite exercise of due diligence when the suit was instituted. So far as correcting any typographical error in the particulars of the cheque(s), the same can be taken care of on the basis of evidence *qua* the cheques in question to be produced during course of trial. As a matter of fact, it appears that the petitioner in the guise of pleading subsequent event or correction of typographical error has attempted to add the allegations *qua* cheating in a clandestine manner, apprehending that he may not be able to avoid the sale deed on the basis of pleadings originally made. In this view of the matter, I do not find any error much less illegality in the impugned order as would warrant intervention.

For the foregoing reasons, the petition is dismissed. Nothing stated in this order shall be construed as an expression of opinion on merits of the case.

**01.04.2016**  
*yakub*

**(REKHA MITTAL)**  
**JUDGE**