

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.6057 of 2016(O&M)
Date of Decision: 04.10.2016

Kuldeep Singh

.....Petitioner

Versus

Gian Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Ms. Satpreet Grewal Kapila, Advocate
for the petitioner.

RAJ MOHAN SINGH, J.(Oral)

[1]. Petitioner has assailed order dated 08.07.2016 passed by Additional Civil Judge (Senior Division), Patti, District Tarn Taran, vide which application under Order 6 Rule 17 CPC filed by the plaintiff-petitioner for amendment of plaint was rejected.

[2]. Learned counsel for the petitioner submits that first application filed by the petitioner under Order 6 Rule 17 CPC was withdrawn on account of clerical mistake vide order/statement dated 28.10.2015. After withdrawal of the aforesaid application, there was no application in existence, but under some misconception, plaintiff-petitioner again filed an application under Section 151 CPC, seeking to correct the date

i.e. 15.06.2005 to 15.06.2008.

[3]. The said application was dismissed by the trial Court by observing that since original application under Order 6 Rule 17 CPC was not in existence, filing of application for correction of date in the said application was highly misconceived. Application under Section 151 CPC was accordingly dismissed with costs of Rs.3000/- vide order dated 01.12.2015.

[4]. Thereafter, plaintiff-petitioner filed an application under Order 6 rule 17 read with Section 151 CPC for amendment of plaint pursuant to original statement dated 28.10.2015. This application was treated to be third application by the trial Court and was dismissed by impugned order dated 08.07.2016

[5]. Learned counsel for the further submitted that in fact in view of withdrawal of first application and dismissal of application under Section 151 CPC for correction of date, the present application could not have been treated to be third application for amendment of plaint.

[6]. Be that as it may, I proceeded to hear the arguments on merits.

[7]. Apparently, the plaintiff-petitioner has already availed 15 opportunities to lead his evidence. As per facts noticed in the impugned order, plaintiff has failed to adduce any evidence on record. On being asked, learned counsel for the petitioner

submitted that petitioner could not lead any evidence on record.

[8]. In view of aforesaid, It was obligatory upon the trial Court to pass appropriate order in the context of suit itself, but since the suit is still pending, therefore it appears that the plaintiff-petitioner intended to by pass the order of closing the plaintiff's evidence by filing the present application.

[9]. No indulgence can be granted in the application under Order 6 Rule 17 CPC, even if, the application in question is treated to be the first application after withdrawal of original application on 28.10.2015.

[10]. In view of aforesaid, this revision petition is dismissed.

04.10.2016

Prince

**(RAJ MOHAN SINGH)
JUDGE**

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No