

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

CR No.7275 of 2015(O&M)

Date of decision:9.5.2016

Girnar Impex Limited and another

....Petitioners

VERSUS

M/s A.R. Shipping

.....Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

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

Present: Mr. Piyush Kant Jain, Advocate for the petitioners.

Mr. Munish Gupta, Advocate for the respondent.

REKHA MITTAL, J.

Challenge in the present petition has been laid to the order dated 07.09.2015 (Annexure P-8) passed by the Civil Judge (Junior Division), Jalandhar whereby application of the petitioner for amendment of the written statement filed under Order 6 Rule 17 read with Section 151 of the Code of Civil Procedure, 1908, has been dismissed.

Counsel for the petitioner has submitted that the respondent has filed a suit for recovery of Rs.2,17,643/- in regard to service and handling charges for handling export consignment of the petitioner. The petitioner filed the application for amendment of the written statement to raise preliminary objection qua territorial jurisdiction of the Court at Jalandhar in the light of materials on record that no cause of action accrued

within territorial jurisdiction of the Court at Jalandhar and the jurisdiction lies with the Court at Ludhiana. It is argued that the learned trial Court has dismissed the application primarily on two grounds i.e. the application has been filed at the stage of defence evidence after application filed by the petitioner for framing additional issue qua jurisdiction has been dismissed and secondly the petitioner has admitted jurisdiction of the Court by filing a counter claim. It is further argued that the reasons that weighed in the mind of the trial Court cannot formulate the basis for dismissing an application for amendment of the written statement.

Counsel for the respondent, on the contrary, has supported the impugned order with the submission that as the petitioners have filed a counter claim in the Court at Jalandhar, it amounts to waiver of any such objection qua territorial jurisdiction of the Court.

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

The petitioners filed the application for amendment of the written statement at the stage when the case was pending for evidence of the petitioners/defendants and the application was filed after availing number of opportunities for the purpose. The trial Court has rightly held that once the petitioners have filed a counter claim treated as a cross suit by invoking the jurisdiction of the Court at Jalandhar, they are estopped by their act and conduct to challenge the territorial jurisdiction of the Court by way of amendment.

In view of the above, 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.

MAY 9, 2016
'D. Gulati'

(REKHA MITTAL)
JUDGE