

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

Civil Revision No.8139 of 2015
Date of Decision: March 29th, 2016

Brgd.Sarabjit Singh Ahluwalia

...Petitioner

Versus

Mrs.Barinder Kaur Ahluwalia & another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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

Present: Mr.Saurav Verma, Advocate,
for the petitioner.

Mr.Deepak Thapar, Advocate,
for respondent No.2.

AMIT RAWAL, J. (Oral)

The petitioner is aggrieved of the dismissal of the application seeking amendment of the written statement by amending preliminary objections from paras 1 to 9 by substituting paras No.1 to 6 and also on merits from paras 1 to 11.

Mr.Saurav Verma, learned counsel appearing on behalf of the defendant submits that certain important facts could not be incorporated in the written statement at the time of preparing the same for want of necessary information. He submits that the suit is at initial stage. No harm and prejudice would be caused as the respondent-plaintiffs would have a right to rebut the same by filing replication.

Mr.Deepak Thapar, learned counsel appearing on behalf of

respondent No.2 submits that the defendant had full knowledge of the facts

at the time when the written statement was filed. Further the judgment of the Civil Judge (Junior Division) was in existence at the time of filing of the written statement as it was rendered on 28.10.2014 and, therefore, the amendment cannot be allowed. The suit has now reached the stage of plaintiffs' evidence. In case the amendment is allowed, it will not only alter the nature and the defence, but it would tantamounts to de novo of the trial and, thus, urges this Court for dismissal of the revision petition.

I have heard the learned counsel for the parties and appraised the paper book.

The yardsticks/parameters for amendment of the plaint and the written statement are totally different and are more liberal vis-a-vis seeking the amendment of the written statement, but on going through the amended written statement, defendant has sought the leave of the Court to substitute paragraphs as referred above, which, in my view are elaborate and elucidative in nature and do not amount to altering the nature of the defence, much less withdrawal of the admission. The plaintiffs would have a right to rebut the same by way of replication. Till date, plaintiffs have led their evidence, so it does not tantamount to de novo of the trial.

Accordingly, the impugned order is set-aside and the revision petition stands allowed subject to payment of ₹5,000/- as costs.

March 29th, 2016
ramesh

(AMIT RAWAL)
JUDGE