

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.8152 of 2016

Date of Decision: December 05, 2016

Saroj Devi

...Petitioner

Versus

Smt.Sheela Devi & others

...Respondents

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

Present: Mr.Pavan Malik, Advocate,
for the petitioner.

AMIT RAWAL, J. (Oral)

Petitioner-defendant is aggrieved of the allowing of the application moved by the respondent-plaintiffs seeking amendment of the plaint at plaintiff's evidence for incorporating the MC number.

Mr.Pavan Malik, learned counsel for the petitioner-defendant has drawn the attention of this Court to the cross-examination of the witness purported to be summoned from the office of Municipal Corporation, Gurgaon, who submitted that he had not brought the record with regard to House No. 356. MC number to be brought on record would set up a totally new case as already four witnesses have been examined, thus, it would be *de novo* trial. The application is not signed by the respondent-plaintiffs, but by the lawyer and, therefore, could not have been entertained in view of the provisions of Order 6 Rule 15 CPC. All these factors have not been noticed by the trial Court, thus, there is gross illegality and perversity.

I have heard the learned counsel for the petitioner-defendant

and appraised the paper book.

Learned counsel for the petitioner-defendant, as noticed above, has given a photo copy of the statement of PW-4, Clerk from Nagar Nigam, Gurgaon. In my view, the statement, when read out, it does not tantamount to dispute the contents of the application seeking amendment as the record of the concerned property has already been brought, therefore, it would be totally insignificant whether it bears the MC number or not. The onus is upon the plaintiffs to urge and prove the same. Since the suit is at the stage of plaintiffs' evidence, no harm would be caused to the petitioner-defendant as she would be able to cross-examine the witnesses. It is only the witness of the Municipal Corporation, who would be relevant and not the one already examined. The order 3 Rule 1 CPC enables the pleader to move an application. For the sake of brevity, provisions of Order 3 Rule 1 CPC read thus:-

“ORDER III- RECOGNIZED AGENTS AND PLEADERS 1. Appearances, etc., may be in person, by recognized agent or by pleader— Any appearance, application or act in or to any Court, required or authorized by law to be made or done by a party in such Court, may, except where otherwise expressly provided by any law for the time being in force, be made or done by the party in person, or by his recognized agent, or by a pleader appearing, applying or acting, as the case may be, on his behalf:

Provide that any such appearance shall, if the Court so directs, be made by the party in person”.

Therefore, the application moved would not be hit by the provisions of Order 6 Rule 15 CPC as the amended plaint is stated to have been filed, which is accompanied by an affidavit of the respondent-plaintiffs.

For the foregoing reasons, no ground for interference is made out.

Revision petition stands dismissed.

December 05, 2016
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No