

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

CR No.8506 of 2015

Date of decision : 15.01.2016

Bhupinder Singh

...Petitioner

Versus

State of Punjab and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

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. M.L. Sarin, Sr. Advocate with
Ms. Ankita Sambyal, Advocate,
Mr. Rubal Garg, Advocate,
Mr. Vijay Sharma, Advocate for the petitioner.

Mr. Piyush Bansal, DAG, Punjab.

AMIT RAWAL, J. (Oral)

The petitioner-defendant is aggrieved of the order dated 01.05.2015, whereby application seeking amendment of the written statement, has been declined.

Mr. Piyush Bansal, Deputy Advocate General, Punjab has put in appearance on behalf of State.

Mr. M.L. Sarin, learned Senior counsel assisted by Ms. Ankita Sambyal, Advocate appearing on behalf of the petitioner-defendant has drawn the attention of this Court to the order dated 14.12.2015, whereby after noticing the contention of learned counsel for the petitioner, notice of

motion was issued. The order reads thus:-

“Learned Senior counsel for the petitioner/defendant No.4 submits that in a suit filed by the State challenging the sale deed executed by the State in favour of the vendee - Sant Piara Singh, the application for amendment of the suit to incorporate the following amendment has been filed, which reads thus:-

“In the interest of public and for charitable purposes, the defendants No.4 and 5 established a Trust known as “BHAIGHANIYA CHARITABLE TRUST, MAIN ROAD, SULAR, PATIALA” with Branch Office Lower Mall, Opposite Patiala Auto, Patiala with Harbhajan Singh defendant Settler of the Trust. Thus Trust has been constituted vide Trust Deed executed on 19th day of May, 2004 and the main objects of the Trust are duly mentioned in the Trust Deed and are all for the welfare and in the interest of public at large from all aspects and to help the physical disabled and handicapped people, children widow etc. and also to promote education. Various projects; like Bhai Lalo Primary School, Gurmat Sangeet Academies (College), Mata Khiwi Biradh Ghar and for needy person ration projects are going on and hospital under the name and style of “Bhai Ghaniya Charitable Hospital” has also been constructed. In the month of October, 2012 “Sweet Home for the orphan children” was started therein in the building in the suit land and it was even inaugurated by Shri D.S.Bains, Principal Secretary, Punjab Forest Department and also by other Cabinet Ministers accompanied by Deputy Commissioner, Patiala. The above Charitable namely “BHAIGHANIYA CHARITABLE TRUST, MAIN ROAD, SULAR, PATIALA” is duly registered with the Income Tax Department of Central government of India and has also been declared as Public Charitable Trust and the Donors are given exemption for the donation given to the above Trust. All records regarding activities being carried out by the above Trust in the

interest of public and charitable basis is in possession of the said Trust, who are also filing Income Tax Returns regularly with the Income Tax Department. Even considering the charitable work done in the suit land by the above trust, the State of Punjab has also been giving financial help in the shape of grants and issued Cheques, particulars of which are given below:-

Sr. No.	Cheque No. & Bank	Date	Amount
1	32586 (HDFC Bank)	14.10.2011	Rs.5,00,000.00
2	32923 (HDFC Bank)	19.11.2011	Rs.2,00,000.00
3	33011 (HDFC Bank)	29.11.2011	Rs.5,00,000.00
4	315781 (HDFC Bank)	23.12.2011	Rs.5,00,000.00
5	33258 (HDFC Bank)	24.12.2011	Rs.1,500,000.00
6	33272 (HDFC Bank)	27.12.2011	Rs.8,00,000.00
7	315786 (HDFC Bank)	29.04.2012	Rs.4,00,000.00
8	315785 (HDFC Bank)	29.04.2012	Rs.5,00,000.00
9	828277 (OBC Bank)	08/06/12	Rs.1,356,000.00

Keeping in view the abovesaid Registered Public Charitable Trust, the said Trust applied to the State of Punjab/Government of Punjab for grant of funds to it for raising the construction of the buildings and to achieve and promote the objects of the Trust. Grants were even granted by the State of Punjab/Government of Punjab for raising the construction of the building by the Trust in the suit land. Thus, the State of Punjab-plaintiff is estopped by its own act and conduct from challenging the sale deed dated 04.03.2002 vide which the suit land was purchased by the defendants No.4 and 5 and the defendant No.1 for valuable consideration and created Trust in the said land for charitable purposes, which fact is well within the knowledge of the plaintiff and considering the bona fide of the same has already granted huge funds to it as stated above.”

He further submits that in this regard, evidence

has already been led and no evidence would be required which may not be treated to fill up the lacunae as the suit is listed for rebuttal and arguments.

Notice of motion for respondent No.1/plaintiff for 15.01.2016.

Liberty is granted to the petitioner to serve respondent No.1 through dasti process, as well as, through the counsel representing him before the trial Court.

In the meantime, the trial Court shall not pass final order."

The amendment sought to be incorporated have already been noted in the aforementioned order. I am of the view that aforementioned amendment is elaborative in nature which would help the Court in the adjudication of the lis between the parties. Since this Court had already noted that in respect of amendment of the written statement sought to be incorporated, petitioner would not lead any evidence. I am of the view that the amendment of the written statement is innocuous and will not prejudice the right of the respondent-plaintiff, much less, tantamounts to withdrawal of the admission.

Keeping in view the aforementioned facts, impugned order dated 01.05.2015, whereby application for seeking amendment of written statement was declined, is hereby set aside. Application is allowed.

Revision petition stands allowed.

15.01.2016

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**(AMIT RAWAL)
JUDGE**