

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.8664 of 2015 (O&M)

Date of decision:10.08.2016

Shiv Charan Singh and others

... Petitioners

Vs.

Anil Kumar Tewari and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Vivek Singla, Advocate
for the petitioners.

Mr. Sanjiv Pandit, Advocate
for respondent No.1.

AMIT RAWAL J. (Oral)

The petitioner-defendants are aggrieved of the dismissal of the application filed under Order 6 Rule 17 read with Section 151 of Code of Civil Procedure seeking amendment of the written statement by withdrawing the admission purported to have been made by Power of Attorney holder, who is none-else but real brother.

Mr. Vivek Singla, learned counsel appearing on behalf of the petitioners submits that copy of the agreement to sell, which is in possession of the petitioners, regarding the rate of property was blank, whereas, the respondent-plaintiffs filled it at different rate than the agreed one. The brother was not given any authority to file the written statement by admitting the agreement to sell which tantamounts to admission of claim.

No doubt, General Power of Attorney till date has not been cancelled but the fact remains that agents do not act against the interest of the principal. The principal is well within his right to seek amendment and thus, urges this Court for setting aside the findings rendered in the impugned order.

Mr. Sanjiv Pandit, learned counsel appearing on behalf of respondent No.1 submits that both the agreements to sell are signed by petitioner-Shiv Charan Singh, in essence, when the agreement to sell was signed, he was in India. The dispute is with regard to rate fixed in the agreement to sell. No sane person would sign the agreement to sell having blank column regarding the rate of land. Moreover, the Power of Attorney has yet not been cancelled which shows act of greed much less, cheating and tantamount to withdrawal of the admission which is not permissible in law as valuable right has accrued in favour of his client.

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

The cardinal relationship between the principal and agent is that the agent has to act in pursuance to the directions given in the Power of Attorney by the principal. It is not the case of the petitioners that fraud has been played upon, thus, as the attorney is still in vogue and no explanation has come forth under what circumstances the brother or attorney had filed the written statement admitting the claim.

I have gone through the written statement. It is a detailed one. The question is with regard to readiness and willingness. In my view, once the agent on the directions of the principal has filed the written statement,

he cannot be permitted to seek amendment as it tantamounts to withdrawal of the admission.

There is no force in the submission of Mr. Singla that admission can be withdrawn, in case, the suit is at the initial stage. I am not in agreement with the aforementioned contention, for the reason that no explanation has been given in the application, much less, in the revision petition for not cancelling the attorney so far.

In view of the aforementioned observations, I do not intend to differ with the findings rendered by the trial Court in declining the application. No ground is made out for interference in the impugned order, much less, the same cannot be said to have been passed without jurisdiction.

Accordingly, the revision petition stands dismissed.

However, it is made clear that nothing observed herein above shall not be construed as an expression of opinion on the merits of the case.

(AMIT RAWAL)
JUDGE

August 10, 2016
savita

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No