

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

**Civil Revision No.165 of 2017 (O&M)
Date of Decision: 20.07.2017**

Arti Devi and others

.....Petitioners

Vs

Pardeep Kumar and others

....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. J.S. Mehndiratta, Advocate
for the petitioners.

Mr. S.S. Dinarpur, Advocate
for respondent Nos.1 to 14.

RAJ MOHAN SINGH, J.

[1]. Petitioners have challenged the order dated 14.12.2016 passed by the Additional Civil Judge (Sr. Divn.) Yamuna Nagar at Jagadhri whereby application filed by respondent Nos.1 to 14 (plaintiffs) for amendment of the plaint was allowed.

[2]. Notice of motion was issued by this Court on 16.01.2017. On appearance, learned counsel for respondent Nos.1 to 14 filed CM No.4444-CII of 2017 for the vacation of stay order on the premise that the trial Court has allowed the amendment subject to payment of cost of Rs.500/-.

[3]. Learned counsel for respondent Nos.1 to 14 submitted that the cost was duly paid to the defendants which is apparent. The interlocutory order dated 14.12.2016 passed by the Additional Civil Judge (Sr. Divn.) Yamuna Nagar at Jagadhri has the endorsement of receipt regarding the cost by the counsel namely Jatin Narwal, P-3056/2015. The factum of payment of cost was further noticed by the Chief Judicial Magistrate, Yamuna Nagar at Jagadhri in order dated 04.01.2017.

[4]. On the strength of aforesaid premise, learned counsel relied upon **Mewa Singh and another vs. Brahma Nand and others, 1972 PLJ 157** and **Amar Singh vs. Perhlad and others, 1989 PLJ 496** and contended that once the cost was accepted by the defendants, they cannot turn around to challenge the order vide which the amendment has been allowed by the trial Court.

[5]. On the other hand, learned counsel for the petitioners submitted that the receipt of cost by the counsel was without the instructions from the petitioners and, therefore, fault of the counsel should not be credited to the disadvantage of the petitioners. In support of his contention, learned counsel relied upon **Rafiq and another vs. Munshi Lal and another, (1981) 2 SCC 788.**

[6]. I have considered the submissions made at the bar.

[7]. Receipt of cost has been duly proved on record by way of interlocutory orders passed by the Courts below. The stand of the petitioners in the context of receipt of cost by the counsel without any instructions cannot be accepted at this stage. The ratio culled out in **Mewa Singh and another** and **Amar Singh's** cases (supra) are fully applicable to the facts of the present case.

[8]. In view of aforesaid, I do not find any justification to interfere in the impugned order passed by the trial Court vide which prayer for amendment of the plaint was accepted. Consequently, this revision petition is dismissed.

July 20, 2017

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No