

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

CR No.2763 of 2017.

Date of Decision: 20.04.2017.

Bhagwant Dayal (since deceased) through his legal heirs Madhu Bhardwaj
and others

....Petitioners.

VERSUS

Ved Parkash and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. A.P. Bhandari, Advocate for the petitioners.

SNEH PRASHAR, J.

Aggrieved of the order dated 31.03.2017 passed by learned Civil Judge (Junior Division), Gurugram vide which the application filed for the petitioner for ignoring the amended written statement filed by respondents-defendants No.1 and 2 was dismissed, the instant petition has been filed.

The submissions made by Mr. A.P. Bhandari, learned counsel representing the petitioner have been considered.

Learned counsel for the petitioner argues that learned first appellate Court allowing the application under Order I Rule 10 of the Code of Civil Procedure (for short, 'the Code') for impleading Bharti Infratell Limited as party to the suit and the application under Order VI Rule 17 read with Section 151 of the Code for amendment of the plaint remanded the case to learned trial court for deciding the same afresh. The said company

(respondent-defendant No.7) was impleaded as party to the suit but despite receipt of due notice of the suit, the said respondent did not appear and was proceeded against ex parte. There was no change of pleadings of the petitioner qua respondents-defendants No.1 to 6. By way of amendment in the plaint, Para No.5(a) was added raising appropriate pleas only against respondent No.7. When the said respondent did not appear to contest the suit and had been proceeded against ex parte, there was no occasion for respondents No.1 and 2 to file an amended written statement. The petitioner as well as the respondents have already led their evidence and no fresh issue arose between them from the amended pleadings. However, by filing amended written statement, respondents No.1 and 2 want to have a denovo trial which is illegal and therefore, the amended written statement filed by the said respondents deserves to be ignored.

There appears no merit in the argument of learned counsel for the petitioner. When the petitioner had been allowed to amend the pleading, the respondents to their option had a right to file amended written statement to respond to the amended pleadings. Moreso, the order passed by learned trial court indicates that in the paragraph added by way of amendment by the petitioner, it has been alleged that defendants-respondents No.1 and 2 have hatched a conspiracy with respondent No.7 with a malafide intention to harm the health and well being of the petitioner and others. When a specific plea of conspiracy between respondents No.1 and 2 and respondent No.7 has been raised, respondents No.1 and 2 are legally entitled to reply to the allegation levelled against them. By no stretch of imagination, the plea of the petitioner to ignore the amended written statement filed by

Thus, there being no illegality or perversity warranting interference in the order passed by learned trial Court and the petition being devoid of merit is dismissed.

(SNEH PRASHAR)
JUDGE

20.04.2017.
jitender sharma

Whether speaking/ reasoned : **Yes/ No**

Whether Reportable : **Yes/ No**