

C.R. No.3508 of 2017

Gurpreet Kaur
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high court

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

C.R. No.3508 of 2017

Date of Decision: 19.05.2017

Balraj Singh

....Petitioner

Versus

Ram Lal Jain and another

....Respondents

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. Rose Gupta, Advocate
for the petitioner.

DAYA CHAUDHARY, J. (ORAL)

The present revision petition has been filed under Article 227 of the Constitution of India for setting aside order dated 28.03.2017 passed by Additional Civil Judge (Senior Division), Hisar, whereby, the application filed by the petitioner for amendment of written statement has been dismissed only on the ground that the amendment would delay the proceedings of the case.

Learned counsel for the petitioner submits that the amendment in the written statement is necessary for just decision of the case and all the facts were brought to the notice of the counsel but the same were not mentioned in the application and thereafter, the petitioner-defendant changed his counsel. Learned counsel further submits that while passing the impugned order, no reason, whatsoever, has been mentioned and only on the ground that it will not only prejudice the rights of respondent No.1-plaintiff but will delay the proceedings of the case, the application has been dismissed.

Heard the arguments of learned counsel for the petitioner and

have also perused the impugned order as well as application for amendment of written statement.

On perusal of impugned order, it appears that in para No.5, it has been mentioned that both plaintiff and defendant are required to be vigilant and purpose of filing amendment in the written statement is just to delay the proceedings.

Nothing has been mentioned as to whether the amendment in the written statement is necessary or not or some justified reasons are there in not mentioning all these facts at the time of filing earlier written statement. The order has been passed without any application of mind and without taking into consideration the grounds mentioned in the application and without seeing as to whether the amendment in the written statement is having any relevancy with the issue, in dispute, or not.

Accordingly, the present revision petition is allowed and the impugned order dated 28.03.2017 passed by Additional Civil Judge (Senior Division), Hisar is set aside with a direction to the trial Court to reconsider the application of the petitioner and pass a fresh order after taking into consideration the averments made in the application and the provisions of amendment of the pleadings.

The necessary exercise be done within a period of one month from the date of receipt of certified copy of the order.

(DAYA CHAUDHARY)
JUDGE

19.05.2017
gurpreet

Whether speaking/reasoned

Yes

Whether Reportable

Yes