

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No. 417 of 2016

Date of Decision: 12.12.2017

Kotak Mohindra Bank Limited

.....Petitioner

Versus

Jogi Ram

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Rajbir Singh, Advocate
for the petitioner.

Mr. Abhishek Sanghi, Advocate
for the respondent.

ANITA CHAUDHRY, J

This revision is directed against the order dated 5.1.2016 (Annexure P-5) passed by the Additional Civil Judge (Sr. Divn.), Karnal who dismissed the application filed by the petitioner/plaintiff seeking amendment of the plaint.

A suit had been filed by the petitioner-bank seeking to recover the loan granted to the respondent in 2005. The suit was filed in 2011.

The defendants in their written statement took the plea that the plaintiff had concealed the fact the they had filed a complaint under the Negotiable Instruments Act and that complaint had been dismissed and they were playing hide and seek. Besides this some other objections were taken.

The lower Court framed the issues on 29.9.2015. Three months later the plaintiff filed an application seeking amendment in the plaint and

to introduce the fact that they did file a complaint under the Negotiable
Gurpreet Singh Bhatia
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authenticity of this document
Chandigarh

Instruments Act and the Court had returned the complaint for presentation before the competent Court within 30 days.

Counsel for the petitioner submits that the complaint had been filed in Rohtak whereas the suit had been filed in Karnal and the complaint was never presented before the competent Court after the order for return was passed. It was urged that they had no intention to conceal the fact and the fact had been mentioned by the defendants in their written statement and the application had been filed at the initial stages before the trial had commenced and the defendants were not prejudiced in any manner and the trial Court had failed to appreciate the fact that the amendment would not change the nature of the suit and it had wrongly dismissed their application. Reliance was placed upon ***Rajesh Sharma versus Krishna Pal and another 2011 (14) R.C.R. (Civil) 377.***

The submission on the other hand is that the complaint under the Negotiable Instruments Act as well as the suit had been filed by the same officer and the plaintiff had not exercised due diligence and their plea was not *bona fide* and the prayer was rightly dismissed. It was urged that the Court had no jurisdiction and they had taken that objection in their written statement.

The plaintiff wanted to amend the plaint by inserting a fact which is not disputed. The application had been moved before the trial had commenced. No prejudice would be caused to the defendants.

The petition is allowed. The petitioner is permitted to amend the plaint on payment of Rs. 5,000/- as costs which will be payable to the respondent before the Court below. The amended plaint would be filed

within 15 days from today.

(ANITA CHAUDHRY)
JUDGE

December 12, 2017
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : No