

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.4036 of 2017
Date of decision: 14.07.2017

Avtar Singh

... Petitioner

Vs.

Municipal Corporation, Ludhiana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. B.R. Rana, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK, J. (ORAL)

Feeling aggrieved against the order dated 27.04.2017 (Annexure P-4) passed by the learned trial Court, whereby his application for amendment of the plaint was dismissed, plaintiff has approached this Court by way of present civil revision petition under Article 227 of the Constitution of India, for setting aside the impugned order.

Heard learned counsel for the petitioner.

It has gone undisputed before this Court that issues had been framed in the case long back. Petitioner had already started leading his evidence as plaintiff, treating the unamended plaint to the correct. Learned counsel for the petitioner is not aware as to when the issues were framed and how many PWs have been examined by the petitioner. Further, in view of the proviso added to Rule 17 of Order 6 CPC, by way of Act No.22 of 2002 by the Parliament, learned

trial Court would have no jurisdiction to amend the plaint after commencement of the trial, particularly when plaintiff failed to point out that despite exercise of due diligence on his part, he could not seek amendment in the plaint at an earlier point of time. Having said that, this Court feels no hesitation to conclude that the learned trial Court committed no error of law, while passing the impugned order and the same deserves to be upheld.

Under the changed circumstances of the case noticed hereinabove, had the learned trial Court allowed amendment in the plaint of the petitioner, said order would have been an order without jurisdiction. It is so said because it is not even pleaded or argued case on behalf of the petitioner that despite exercise of due diligence on his part, he could not seek amendment in his plaint earlier. Under these undisputed facts and circumstances of the case, it can be safely concluded that the learned trial Court was well within its jurisdiction to pass the impugned order and the same deserves to be upheld, for this reason also.

During the course of hearing, learned counsel for the petitioner could not point out patent illegality or perversity in the impugned order, which may warrant interference at the hands of this Court, while exercising its revisional jurisdiction under Article 227 of the Constitution of India. In fact, the impugned order has been found based on sound reasons and the same deserves to be upheld, for this reason as well.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that since no illegality or perversity has been found in the impugned order, the same deserves to be upheld. The revision petition having been found wholly

misconceived, bereft of merit and without any substance, must fail. No ground for interference has been made out.

Resultantly, with the abovesaid observations made, present revision petition stands dismissed, however, with no order as to costs.

14.07.2017
vishnu

[RAMESHWAR SINGH MALIK]
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No