

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR-4269-2017

Date of decision: 05.07.2017

Vijay Singh

..... Petitioner

Versus

Virender Singh Nalwa

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Sandeep Singh Ghangas, Advocate for the petitioner.

RAMENDRA JAIN, J. (ORAL)

1. Prayer in the instant revision under Article 227 of the Constitution of India, has been made to set aside the order dated 30.05.2017, passed by the trial Court, dismissing the application of the petitioner-plaintiff, under Order VI Rule 17 read with Section 151 CPC, seeking amendment in the plaint.

2. Learned counsel for the petitioner contended that the entire suit of the petitioner is based on oral family settlement. Later on, the same was reduced into writing vide agreement dated 01.07.2011 (Annexure P-3). The factum of the said agreement endorsing the oral family settlement could not be incorporated in the plaint as the same was not available with the petitioner, at the time of filing the suit. Now, the petitioner could trace the same during white wash of his factory.

3. I have given considerable thought to the submissions made by learned counsel for the petitioner-plaintiff and have perused the paper-book.

4. Proviso to Order VI Rule 17 CPC, provides that amendment of pleadings shall not be allowed when the trial of the suit has already commenced. It is not disputed that the factum of agreement sought to be incorporated in the plaint was also signed by the petitioner-plaintiff and thus, by any stretch of imagination, it cannot be said that the petitioner was not aware of the same, at the time of filing the plaint. More so, the issues have already been framed on 03.11.2014 and the case is now fixed for petitioner-plaintiff's evidence. The petitioner shall prove the said agreement, if any, in his evidence for which no amendment is required in the plaint. There is no illegality or perversity in the impugned order, as the learned trial Court has observed that copy of the said agreement has never been supplied to the respondent-defendant, despite his several requests, nor its copy had ever been placed on record.

5. In view of the above, the instant revision, being completely devoid of any merit, is hereby dismissed.

July 05, 2017

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**(RAMENDRA JAIN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No