

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.432 of 2017
Date of decision: 05.07.2017

Kashmira Singh

... Petitioner

Vs.

Balwinder Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Liaqat Ali, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK, J. (ORAL)

Feeling aggrieved against the order dated 09.11.2016 (Annexure P-4) passed by the learned trial Court, whereby his application moved under Order 6 Rule 17 read with Section 151 of the Code of Civil Procedure ('CPC' for short) 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 trial of the suit had commenced long back. Not only that, treating the averments taken in his plaint as well as the site plan to be correct, plaintiff-petitioner led his evidence. He filed his own affidavit on 17.04.2015 in support of his pleaded case as his examination-in-chief. Thereafter, he was cross-examined on various dates, which came to be

concluded on 04.05.2016. Under these undisputed facts and circumstances of the case, it can be safely concluded that the learned trial Court committed no error of law, while passing the impugned order and the same deserves to be upheld.

A bare perusal of the proviso added to Rule 17 of Order 6 CPC, by way of Act No.22 of 2002, would show that no such application for amendment could have been allowed by the learned trial Court, because admittedly the trial had commenced long back, as noticed hereinabove. It is also not the pleaded or argued case on behalf of the petitioner that said amendment could not be sought by the petitioner in spite of due diligence and he could not raise the said issue before the learned trial Court before commencement of the trial. Having said that, this Court feels no hesitation to conclude that had the learned trial Court allowed the application for amendment of the plaint at this belated stage, said order would have been an order without jurisdiction, therefore, no fault can be found with 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.

05.07.2017
vishnu

[RAMESHWAR SINGH MALIK]
JUDGE

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