

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

CR No.4849 of 2017(O&M)

Date of decision: 11.9.2017

M/s Videocon Industries Ltd.

.....Petitioner

VERSUS

M/s Gupta Electronics and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Vikas Mohan Gupta, Advocate for the petitioner.

REKHA MITTAL, J.

The present petition directs challenge against order dated 30.05.2017 passed by the Civil Judge (Junior Division), Chandigarh (hereinafter to be referred as the trial Court) whereby application for amendment of the plaint has been dismissed.

The petitioner/plaintiff has filed a suit for recovery of Rs.54,29,250.21 (Rs.33,52,126/- as principal amount and Rs.20,77,124.11 as interest) along with pendente lite and future interest against the respondents/defendants. When the case was pending for evidence of the petitioner/plaintiff, the instant application was filed with the plea that certain typographical mistakes which exist in para 9 and 12 of the plaint came to knowledge of the plaintiff and correction thereof would not cause prejudice to the respondents as the same would not change nature of the suit nor any right to recover an amount would be abandoned nor any additional claim would be added. The amendments which were sought to

be made have been reflected in bold in para 8 of the application. Counsel for the petitioner would urge that in para 9 of the plaint, amount of Rs.17,34,000/- has been mentioned but the same is required to be Rs.12,34,000/-. In para 12 in 12th line, amount of Rs.33,52,126/- has been wrongly typed whereas the correct figure would be Rs.33,84,516/-. In para 10, the petitioner only wanted to plead a fact with regard to issuance of debit note for an amount of Rs.71,000/- during the period 12.04.2008 to 21.08.2008. It is argued with vehemence that as the proposed amendment would neither change nature of the suit nor liability stated to be outstanding against the respondents, the trial Court has committed a serious error by rejecting application of the petitioner.

I have heard counsel for the petitioner, perused the paper-book particularly various annexures appended with the petition.

If we read para 9 after allowing substitution of figure as Rs.12,34,000/- in place of Rs.17,34,000/-, the same does not reconcile with the averments in the same para with regard to encashment of cheques of Rs.8,34,000/- and dishonor of two cheques of Rs.5,00,000/- and Rs.4,00,000/- respectively. Counsel for the petitioner tried to explain that cheque of Rs.5 lakh was issued on 12.04.2008 and not after 12.04.2008 but no such fact has been sought to be clarified by way of amendment in para 9 of the plaint. Under the circumstances, it is difficult to accept plea of the petitioner that there is typographical mistake in para 9 which is liable to be corrected by way of amendment. Similarly, there is no explanation in the application for amendment as to how there is typographical mistake in 12th line of para 12 mentioning the total amount as Rs.33,52,126/- as against the correct figure of Rs.33,84,516/-. In para 10, the petitioner has sought to make addition to the following effect:-

"Further, plaintiff also issued debit note for an amount of Rs.71,000/- during the period of 12.04.2008 to 21.08.2008."

This addition, by no stretch of imagination, can be said to be result of typographical error. There is no other explanation by the petitioner as to why the fact sought to be added in para 10 of the plaint could not be pleaded earlier. In this context, reference can be made to judgment of Hon'ble the Supreme Court **J. Samuel and others Vs. Gattu Mahesh and others, 2012(1) RCR (Civil) 903**. In view of the above, I do not find any error much less infirmity in the impugned order warranting intervention.

For the foregoing reasons, the petition fails and is accordingly dismissed *in limine*.

SEPTEMBER 11, 2017
'D. Gulati'

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned : yes/no

Whether reportable : yes/no