

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

CR No.5253 of 2017
Date of decision : 09.08.2017

Punjab State Power Corporation Ltd. and others

...Petitioners

Versus

Sadr Anjuman Ahmadiyya, Qadian, a Registered Society

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. A.A. Pathak, Advocate for the petitioners.

Mr. G.S. Bhatia, Advocate for the respondent.

ANIL KSHETARPAL, J.

The defendants have filed this revision petition under Article 227 of the Constitution of India challenging the order dated 11.05.2017 passed by the Civil Judge (Junior Division), Batala dismissing the application filed under Order 6 Rule 17 CPC on the ground that the trial of the suit is at the fag end.

Learned counsel for the petitioners-defendants has submitted that the defendant is a Government Corporation. In the written statement, there was a typographical error which is apparent on the face of the record. It is further submitted that only typographical error is sought to be corrected by way of amendment. He has brought to my notice that the information extracted in the form of table is a part of the unamended written statement.

Table is as under:-

	“(Due) Sale of Power (SOP)	Fuel Charge	Electricity Duty	Octroi
	14,92,932/-	20405/-	4,64,824/-	60356/-
Less				
Paid				
Amount	17,79,194/-	9217/-	2,44,246/-	30178/-
Total	24,33,738/-	11108/-	2,20,578/-	30178/-
Grand Total	Rs.24,13,738 + 11108 + 2,20,578 + 30178 – Rs.26,75,602/-			

Counsel for the petitioners-defendants has submitted that in fact in place of 14,92,932/-, the correct figure is 41,92,932/-. It was due to typographical error that the aforesaid figure has been mentioned. He has further submitted that the typographical error is apparent because out of total dues for sale of power, the plaintiff had paid ₹17,79,194/- and the balance payment on account of sale of power comes to ₹24,33,738/- only if the figure is ₹41,92,932/-.

He further submits that if we total the amount due on account of the sale of power, the amount comes to ₹41,92,932/-.

On the other hand, learned counsel for the respondent has submitted that the amendment cannot be permitted as it amounts to withdrawal of admission. He further submits that even the Assistant Engineer who appeared as DW1 has led evidence in accordance with the unamended written statement. Therefore, the defendants cannot be permitted to amend.

A reading of table extracted above, would prove that there was only a typographical error. Section 153 of CPC authorizes the Court to allow the correction of error at any stage even after the case having been decided. On bare reading of the tabulated information compiled by the

defendants, it is clear that while typing, figure Nos.1 and 4 has been wrongly swapped.

The submission of learned counsel for the respondent is that an admission is being withdrawn which is factually incorrect. The defendants had contested the suit filed by the plaintiff. It was specifically mentioned in the tabulated information that the amount of ₹26,75,602/- was demanded but plaintiff failed to pay. Hence, there no withdrawal of admission made.

The next submission of the learned counsel for the respondent is that DW1 has appeared and given statement in terms of written statement. I have gone through the statement of DW1. In examination-in-chief, the tabulated information as reproduced in the written statement has again been extracted in which again the same error has crept. It appears that the aforesaid table was copied and pasted from the written statement. Once it is established that there is a typographical error in the pleadings which may have been wrongly carried over while leading evidence, the Court is not debarred from allowing the amendment.

For the reasons recorded above, the order passed by the learned trial Court is clearly erroneous. Hence, the same is set aside.

The amendment sought for by the petitioner is allowed.

Revision petition is accepted.

09.08.2017

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No