

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.5747 of 2016 (O&M)
Date of decision: 09.05.2017

Mohinder Khurana through GPA

... Petitioner

Vs.

Satish Kumar and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Akshay Jindal, Advocate
for the petitioner.

Mr. Chirag Wadhawa, Advocate
for the respondents.

RAMESHWAR SINGH MALIK, J. (ORAL)

Present revision petition, at the hands of defendant, filed under Article 227 of the Constitution of India, is directed against the order dated 16.08.2016 (Annexure P-4), whereby application of the petitioner seeking amendment in the written statement was dismissed by the learned trial Court.

Notice of motion was issued.

Heard learned counsel for the parties.

It is a matter of record that the petitioner-defendant wanted to amend his written statement with a view to incorporate an earlier litigation initiated by the petitioner himself against his vendor Smt. Shanti Devi. A bare

perusal of the impugned order passed by the learned trial Court would show that the learned trial Court was well justified in dismissing the application of the petitioner, because the fact regarding pendency of earlier litigation was very well in his knowledge. It is not pleaded or argued case on behalf of the petitioner that said litigation was initiated by somebody else or it was not in his knowledge. Stage of the suit is also one of the important factors for refusing or granting amendment in the pleadings of the parties. In the present case, issues had already been framed and the trial had commenced. Further, the learned trial Court has very rightly observed that the amendment sought in the written statement was not necessary for adjudication of the case. Having said that, this Court feels no hesitation to conclude that learned trial Court was well within its jurisdiction to pass the impugned order and the same deserves to be upheld.

Had the petitioner been taken by surprise by any fact disclosed by the other side, during pendency of the suit, fact situation might have been different and he could have been permitted to amend his written statement accordingly. However, the case in hand is entirely different. The fact, which the petitioner wanted to incorporate by amending his written statement, was an earlier litigation, which was initiated by the petitioner himself. In such a situation, it does not appeal to reason that said fact was not in the knowledge of the petitioner. Once the petitioner did not think it appropriate to point out the pendency of earlier litigation at his instance, while filing his written statement in the present suit, he cannot be permitted to take undue advantage out of his own wrong. Why he did not mention in his written statement about the pendency of earlier litigation, the reasons were best known to the petitioner

himself. It cannot be said to be a bonafide mistake or a wrong impression. Under these peculiar facts and circumstances of the case, this Court is of the considered view that the petitioner was trying to delay the proceedings, he being defendant in the suit. In this view of the matter, 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, for this reason also.

Conduct of the parties to the litigation is one of the relevant considerations. So far as the impugned order is concerned, petitioner has not been found to be a bonafide litigant. He is trying to misuse the process of law, which cannot be permitted. Suit is supposed to be decided expeditiously and any undue delay on the part of any of the parties to the litigation is not warranted. Once the learned trial Court itself has found the amendment in question as not necessary for proper adjudication of the suit, no fault can be found with the impugned order and the same deserves to be upheld, for this reason as well.

During the course of hearing, learned counsel for the petitioner could not point out any patent illegality or perversity in the impugned order passed by the learned trial Court, which may warrant interference at the hands of this Court, while exercising its revisional jurisdiction under Article 227 of the Constitution of India.

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 the revision petition is wholly misconceived, bereft of merit and

without any substance, thus, it must fail. No case for interference has been made out.

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

09.05.2017
vishnu

[RAMESHWAR SINGH MALIK]
JUDGE

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