

CR No. 7055 of 2016

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No. 7055 of 2016

Date of Decision : May 01, 2017

Karamjit Kaur

.....Petitioner

Vs.

Punjab State Industrial Development Corporation & anr.

.....Respondents

CORAM: HON'BLE MR. RAJAN GUPTA

Present: Mr. Amit Jhanji, Advocate for the petitioner.

Mr. Gian Chand Garg, Advocate for respondent no. 1.

RAJAN GUPTA, J

Present revision petition is directed against the order passed by trial court whereby prayer of the plaintiff-petitioner for amendment of plaint has been rejected. It has been urged before the court that amendment in question is necessary. Certain averments and prayer could not be incorporated in the suit earlier. Thus, trial court has erred in rejecting the application. Reliance has been placed on judgment reported as *North Eastern Railway Administration, Gorakhpur vs. Bhagwan Das (Dead) by LRs (2008) 8 SCC 511*.

Prayer has been opposed by counsel representing respondent no. 1. According to him, plaintiff-petitioner was well aware of the nature of prayer to be made in the suit from the very beginning. However, he moved the instant application after suit had made considerable progress. Thus, trial court has rightly rejected the prayer.

I have heard learned counsel for the parties and given careful thought

to the facts of case.

At the outset it needs to be noticed that a perusal of the head note of the plaint, Annexure P1 shows that same is not happily drafted. In fact the entire head note does not make any head or tail. It can only be inferred that plaintiff filed a suit for declaration that notice dated 28/29 March, 2006 be declared null and void and sale of property by respondent-Corporation be declared illegal and defendant be restrained from selling the mortgaged property given as collateral security. It appears that plaintiffs who had taken a loan from the respondent-Corporation filed instant suit to restrain the Corporation from effecting recovery and not to auction property mortgaged with the bank as collateral security. Suit was filed way-back in the year 2006. Issues were framed in the year 2007. Instant application was filed in the year 2010. Same came to be decided on 24.08.2016. Trial court observed that in view of the fact that trial had already commenced, no case for amendment of the plaint was made out. Besides, there is nothing to show that plaintiff exercised due diligence. I find no infirmity with the order. It is evident that plaintiff who is a loanee has succeeded in delaying the suit. In fact delaying tactics have been adopted in the proceedings. For this reason, suit has been pending for more than a decade. There can be no doubt with the proposition of law laid down in *Bhagwan Das case (supra)*. However, same is not applicable to the instant case in view of facts narrated above. Under the circumstances, no case for interference in revisional jurisdiction is made out. Petition is hereby dismissed.

Trial court would, however, dispose of the suit expeditiously. In case plaintiff tries to delay the disposal of suit any further, it shall be at liberty to impose exemplary costs on her.

May 01,2017

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:	Yes/No
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