

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

265

CR-7530 of 2016 (O&M)

Date of Decision:19.09.2017

Urmila

.....Petitioner

Versus

Sunita Devi and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK.

**Present: Mr.Sanjeev Kumar Aggarwal, Advocate,
for the petitioner.**

**Mr.Manoj Kr.Sangwan, D.A.G., Haryana,
for respondent Nos.10 and 11.**

RAMESHWAR SINGH MALIK, J.(Oral)

Present civil revision petition, at the hands of defendant No.2, filed under Article 227 of the Constitution of India, is directed against the order dated 25.10.2016 passed by the learned trial court, whereby her application for seeking formal amendment in the written statement was declined by the learned trial court.

Notice of motion was issued.

Heard learned counsel for the parties.

It is a matter of record, as noticed by the learned trial court itself in para 5 of the impugned order that defendant No.2-petitioner was seeking formal amendment in her written statement, so as to correct the figure of plot from 132A/23 to 312A/23. Neither the petitioner-defendant No.2 was going to change her stand already taken in her written statement

nor the plaintiffs were going to be taken by surprise by incorporating correct number of the plot. Further, it would have certainly facilitated the learned trial court also to arrive at a judicious conclusion, so as to do substantial justice between the parties. However, the learned trial court misdirected itself while observing that amendment in question was not necessary for determining the real question in controversy. Said observation made by learned trial court in para 5 of the impugned order is not only factually incorrect but the same is illegal and misconceived as well. In this view of the matter, it can be safely concluded that the learned trial court failed to exercise its jurisdiction which ought to have been exercised in favour of the petitioner and the impugned order cannot be sustained.

It is the settled proposition of law that rules of procedure are meant for advancing the cause of justice. The formal amendment sought in the written statement by the petitioner-defendant No.2 was definitely falling within the scope of Order 6 Rule 17 CPC. No prejudice of any kind, whatsoever, was going to be caused to the plaintiffs by allowing formal amendment in the written statement of defendant No.2-petitioner. On the other hand, dismissing the application moved by defendant No.2 under Order 6 Rule 17 CPC while passing the impugned order, a manifest injustice has been caused to the petitioner because of which the impugned order cannot be sustained.

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 the impugned order has been found suffering from patent illegality and perversity, the same cannot be sustained.

Accordingly, impugned order 25.10.2016 passed by the learned trial court is hereby set aside. Application moved by the defendant No.2-petitioner under Order 6 Rule 17 CPC would stand allowed and the petitioner would be permitted to file her amended written statement. Thereafter, the learned trial court shall proceed further to decide the suit, in accordance with law.

Resultantly, with the above-said observations made and directions issued, instant revision petition stands allowed, however, with no order as to costs.

September 19, 2017
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(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No