

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

CR No.8550 of 2015
Date of decision :24.08.2017

Balbir Singh Rai

...Petitioner

Versus

Jagdip Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. K.K. Goel, Advocate
for the petitioner.

Mr. Rahul Parashar, Advocate and
Mr. Tribhawan Singla, Advocate
for respondent No.1.

ANIL KSHETARPAL, J.(Oral)

Defendant No.1-petitioner has filed the present revision petition against the order dated 07.08.2015 (Annexure P-1) dismissing the application under Order 6 Rule 17 of the Code of Civil Procedure (CPC) seeking amendment in the written statement.

Learned trial court while declining the prayer for amendment has held that the defendant No.1 had filed a written statement through counsel, duly signed by him. Defendant No.1 had admitted that a sale deed was executed in his favour. Now with a change of counsel, plaintiff wants to withdraw the aforesaid admission. It is for the reason that the application has been dismissed. A relevant part of the order passed by the Court is extracted as under:-

“4. A perusal of the file shows that in the earlier written statement filed on behalf of defendant No.1, through counsel Sh.G.S. Saini, Advocate, the defendant no.1 himself has signed the written statement

have denied all the averments put forth by the plaintiff. But now, the defendant no.1 wants to bring on record the new story as averred in the application. In the earlier written statement the defendant no.1 has admitted that a sale deed was executed in his favour. An admission once made cannot be allowed to be withdrawn at any stage of the proceedings. Merely, the change of counsel does not authorize the defendant to change his plea also. In the earlier statement, all the defendants have taken the similar stand about their participation in the sale deed, but vide the present amendment, the defendant no.1 seeks to wash his hand from the liability by stating that he has no concern with regard to the execution of said sale deed.

5. Therefore, in view of the factual matrix of the case, the defendants no.1 who himself filed the written statement under his own signatures cannot be allowed to walk out from his earlier admission. The amendment application has been filed after a delay of more than one year, therefore the possibility of after thought and concoction cannot be ruled out. Therefore, the application u/o rule 17 of CPC is dismissed being mis conceived.”

It is well settled that the admission once made in the pleadings cannot be permitted to be withdrawn in the normal circumstances, unless some important material is brought on record to prove that the admission

was made due to some misunderstanding or mistake.

For the reasons stated above, I do not find any good ground to interfere with the order passed by the courts below.

Hence, the revision petition is ordered to be dismissed.

24.08.2017
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/reasoned : Yes
Whether Reportable : No