

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

112

CR-1147-2018

Date of Decision:20.02.2018

Sahib Singh Sabi

.....Petitioner

Versus

M/s Balbir Singh & Sons and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

Present: Mr. Om Pal Sharma, Advocate, for the petitioner.

HARI PAL VERMA, J.(Oral)

Petitioner has filed the present revision petition under Article 227 of the Constitution of India for setting aside the order dated 31.10.2017 (Annexure P-4) passed by the learned Civil Judge (Jr.Divn.) Jalandhar, whereby an application filed by respondent No.1-plaintiff under Order 6 Rule 17 CPC was allowed and plaint was ordered to be amended.

Learned counsel for the petitioner states that respondent No.1-plaintiff has filed a suit for recovery of ₹1,36,000/- on 29.09.2015 against petitioner-defendant No.1 and respondent No.2-defendant No.2 i.e., M/s Himachal Machinery Store. The petitioner is the proprietor of M/s Himachal Engineering Store and is running a shop of manual repair etc. and he had never dealt with respondent No.1-plaintiff in any manner whatsoever as there was no such business dealing with him. The brother of the petitioner, namely, Jagdeep Singh was the owner of M/s Himachal Machinery Store (respondent No.2) and was dealing in sale/purchase of PVC pipes and submersible pumps etc. It is thus respondent No.2- M/s Himachal

sale/purchase of such materials. Even the bills so attached with the plaint relate to respondent No.2- M/s Himachal Machinery Store and respondent No.1-plaintiff has not attached any bill, which may establish that he had any dealing with the petitioner-firm. Therefore, amendment allowed by the trial court is liable to be rejected.

I have heard the learned counsel for the petitioner.

The provision under Order 6 Rule 17 CPC provides that a party can seek an amendment at any stage of the proceedings, which is necessary for the purpose of determining the real questions in controversy between the parties. In the case in hand, respondent No.1-plaintiff has filed a suit for recovery of ₹1,36,000/- which includes interest with an averment that he had sold the goods to the petitioner-defendant vide different bills and it is only after the submission of written statement, it has been pleaded that the defendants have not properly been sued and the defendants-firm are two different firms having separate proprietors. But at the time of purchasing the goods, it is Sahib Singh who himself had purchased the goods from the plaintiff. Even if the petitioner-defendant has been ordered to be impleaded, respondent No.1-plaintiff is still required to prove his case in support of his plaint.

Therefore, this Court finds that there is no illegality in the order dated dated 31.10.2017 (Annexure P-4) passed by the learned Civil Judge (Jr.Divn.) Jalandhar.

Dismissed.

February 20, 2018
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No