

In the High Court of Punjab and Haryana at Chandigarh

202

CR No.1636 of 2018 (O&M)

Date of decision: 12.9.2018

Dr.PRERNA GULATI

.....petitioner

Versus

ORIENTAL BANK OF COMMERCE AND ORS

.....respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Sushil Bhardwaj, Advocate,
for the petitioner.

Mr. Anil K.Ahuja, Advocate
for the respondents

RAJ MOHAN SINGH, J.(oral)

Petitioner has assailed the order dated 22.1.2018 passed by Civil Judge (Jr. Divn.), Ambala, whereby application under Order 6 Rule 17 CPC for amendment of plaint was dismissed.

The proposed amendment is in the context of seeking change in the amount of mesne profit of the premises in question from ₹ 60,000/- to ₹ 1,45,290/- per month. The same is based on variable phenomenon and the Court will ultimately determine the exact amount payable towards mesne profit on the basis of admissible evidence led by the plaintiff. Though there is delay in moving the application, but the delay itself is

not a ground to discard the proposed amendment unless and

until the proposed amendment is proved to be malafide.

It is a settled principle of law that all bona fide amendments should be allowed in the interest of justice so as to enable the court to decide the controversy in an effective manner.

Learned counsel for the petitioner has undertaken at the time of issuance of notice of motion on 13.3.2018 that no evidence is required to be led. Even the Court can mould the relief in terms of Order 7 Rule 7 CPC but in all reasonableness, and in order to rule out any such contingency of ignoring the evidence for want of pleadings, I deem it appropriate to allow the petitioner to incorporate the proposed pleading in the plaint in respect of rate of mesne profit from ₹ 60,000/- to ₹ 1,45,290/- per month subject to payment of ₹ 15,000/- as costs to be deposited with the Registrar, General of this Court, who shall further deposit the same in the 'Kerala Chief Minister's Distress Relief Fund' towards relief to Kerala flood victims.

Payment of costs shall be the condition precedent for granting indulgence by the trial Court in the aforesaid context.

Petition stands disposed of accordingly.

September 12, 2018
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(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/Speaking

Yes/No

Whether reportable

Yes/No