

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

**CR No.2469 of 2016O&M)
Date of Decision: 16.07.2018**

Sunil Kumar and others

.... Petitioners

Versus

Nand Lal

... Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Rakesh Chopra, Advocate
for the petitioners.

Mr. D.S. Malwai, Advocate
for the respondent.

RAJ MOHAN SINGH, J. (Oral)

[1]. This revision petition has been preferred by the petitioners against the order dated 30.01.2016 passed by Additional Civil Judge (Senior Division), Fatehgarh Sahib vide which application dated 08.01.2016 filed by the petitioners for amendment of written statement was dismissed.

[2]. Respondent/plaintiff filed a suit for recovery of Rs.5 lacs as damages against the petitioners on the basis of past litigation between the parties which ultimately came up before the High Court in the form of RSA No.3759 of 2012 and decided on the basis of compromise vide order dated 13.02.2014. Both

the parties were held to be bound by the compromise and the same was made part of the decree. Perusal of the compromise would show that some arrangement was made in respect of stair case and path. Following conditions were incorporated in the compromise:-

“(i) Stair case ABCD will remain as common for going to first floor by both the parties and no party will obstruct each other from using the same.

(ii) Path which is shown as EFG on the first floor will be used by both the parties for ingress and outgress from portion of first floor. First party (defendant/appellants) will have no right to put lintel on this or put any balas or girder or iron rod etc. and first party will not raise the floor level of path EFG, flow of water will be towards stairs.

(iii) First party (defendant/appellant) will have right to put shutter and door in the wall EG and CF for going in their portion, but these shutter and door will not be opened in the path so as to obstruct path EFG.

(iv) First party (defendant/appellant) will have right to construct as many as floors they want on their portion but they will not cover the path shown in EFG in any manner and

(v) For disposal of rain water and electricity wires, First

party (defendant/appellant) will have right to put underground/concealed at his own expense. First party (defendant/appellant) will also repair floor of path with his own expense.”

[3]. At the time of filing of the suit on 17.09.2012, RSA No.3759 of 2012 was pending, but the compromise in question came to be recorded only after framing of issues by the trial Court in the present suit i.e. on 18.09.2013.

[4]. It is a settled principle of law that all *bona fide* amendments are required to be incorporated leaving the effect to be seen by the trial Court at appropriate stage. At this stage, amendment in the written statement can be allowed as the same is situated at different pedestal than the one for amendment of the plaint. Amendment of written statement is to be liberally construed. Defendants are allowed to amend their written statement, thereby incorporating the disposal of RSA No.3759 of 2012 on the basis of compromise on 13.02.2014.

[5]. At this stage, learned counsel for the respondent has brought to the notice of this Court that while effecting compromise in RSA No.3759 of 2012, reference of present suit was not given. Be that as it may, relevancy of the compromise would be seen by the appropriate Court at appropriate stage. The effect of such amendment is to be seen at a later stage by

the trial Court without being influenced by any of the terms and conditions of the compromise and observations made by this Court while deciding the present revision petition. Normal consequences to follow.

[6]. Disposed of.

July 16, 2018
Prince

(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No