

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

113

CR-2593-2018

Date of Decision:25.04.2018

Baldev Singh and others

.....Petitioners

Versus

Hardev Singh

.....Respondent

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

Present: Mr. Gursimranjit Singh, Advocate for
Mr. A.P.S. Sandhu, Advocate,
for the petitioners.

HARI PAL VERMA, J.(Oral)

The petitioners have filed the present revision petition under Article 227 of the Constitution of India for setting aside the order dated 14.11.2017 passed by learned Civil Judge (Junior Division), Amritsar, whereby on an application filed by the respondent-plaintiff, the civil suit which was dismissed in default vide order dated 20.09.2016, has been ordered to be restored back.

Briefly stated, the plaintiff had filed a suit for declaration. However, the said suit was dismissed in default on 20.09.2016. Thereafter, on 21.09.2016, the plaintiff moved an application under Order 9 Rule 4 CPC seeking restoration of the suit.

The petitioners-defendants have filed reply to the application dated 21.09.2016. But while the case was pending consideration for restoration of the suit, the respondent-plaintiff moved an amended application dated 09.08.2017 under Order 9 Rule 9 CPC. Reply to this

application was also filed by the defendants. Thereafter, the learned civil court allowed the application filed under Order 9 Rule 9 CPC and restored the case back to its original number. Learned counsel has questioned the order dated 14.11.2017 restoring the suit. Learned counsel has argued that initially the application was filed under Order 9 Rule 4 CPC on 21.09.2016 and the petitioners have filed reply to the said application. It is thereafter, another amended application under Order 9 Rule 9 CPC was filed by the plaintiff because it is on the basis of objections so raised by the petitioners-defendants, the respondent-plaintiff has become wiser and hence filed the amended application after about nine months. Therefore, the intention of the respondent-plaintiff is to delay the proceedings.

I have heard the learned counsel for the petitioners.

There is no dispute that the civil suit was dismissed in default on 20.09.2016 and immediately thereafter, the respondent-plaintiff has moved the application seeking restoration of the suit on 21.09.2016 i.e. on the next day itself. Therefore, it cannot be doubted that the respondent-plaintiff has any malafide intention in seeking restoration of the case merely because he has filed application seeking restoration of the case on some wrong provision of law, it cannot be a ground to decline him restoration.

Therefore, this Court does not find any illegality in the order dated 14.11.2017 passed by learned Civil Judge (Junior Division), Amritsar.

Dismissed.

April 25, 2018
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No