

In the High Court of Punjab and Haryana at Chandigarh

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Civil Revision No.2969 of 2018

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Date of decision:8.5.2018

Jagdish Narayan Chawla

.....Petitioner

v.

Raj Kumar

.....Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Narinder S. Lucky, Advocate for the petitioner.

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Inderjit Singh, J.

Jagdish Narayan Chawla-petitioner/plaintiff has filed this civil revision petition against Raj Kumar-respondent/defendant under Article 227 of the Constitution of India for setting aside the impugned order dated 18.4.2018 (Annexure-P.4) passed by the learned Civil Judge (Junior Division), Jalandhar, whereby application filed by the petitioner under Order 6 Rule 17 CPC for amendment of plaint has been dismissed.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, I find that during the pendency of the civil suit, an application under Order 6 Rule 17 CPC for amendment of the plaint as well as application under Order 1 Rule 10 CPC had been filed. As per

the averments made in the application, the plaintiff (petitioner herein) has come to know that the defendant had used the blank signed documents and got prepared General Power of Attorney and on the basis of the same, got executed the sale deed in favour of his mother. It has been stated that the plaintiff intends to challenge the said document by adding the relief of declaration and wants to implead the mother of defendant as defendant No.2. The counsel for the defendant (respondent herein) hotly contested the said application on the ground that the said amendment is barred by limitation and the same would change the nature of the suit before the lower Court. The counsel for the defendant also argued before the lower Court that the plaintiff in his cross-examination has himself admitted that he executed GPA dated 20.4.2009 and by moving this application, he intends to resile from admission so made. Therefore, he prayed for dismissal of the application.

The learned Civil Judge (Junior Division), Jalandhar, vide impugned order dated 18.4.2018 dismissed the application. A perusal of the impugned order shows that the order is as per law and no illegality has been committed by the learned lower Court while passing this order. As per the order, the plaintiff's case as given in the plaint is that the plaintiff borrowed a sum from the defendant and the defendant got executed one power of attorney in his favour bearing the signature of the plaintiff. Now, the plaintiff has cleared the loan amount, but the defendant is not returning the possession of the property and threatening him that he will sell out the property to someone else which necessitated filing the suit. The plaintiff

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was well within the knowledge that the defendant has not cancelled the power of attorney and neither returned the blank papers to the plaintiff as explicit from para 4 of the plaint. The defendant in his written statement has specifically taken plea in para 2 that the plaintiff has executed GPA dated 20.4.2009 in favour of the defendant and the defendant has further executed sale deed in favour of his mother Kamlesh Rani. This written statement was filed on 15.12.2016. A perusal of the record shows that the present application has been filed on 1.3.2018 by the plaintiff for amendment of the plaint etc. The plaintiff was knowing the case of the defendant that he has already executed the sale deed on the basis of general power of attorney. After the written statement, issues were framed and even the plaintiff produced the evidence. Even the plaintiff in cross-examination has admitted the execution of the power of attorney. If this amendment is allowed, it will change the nature of the case and further the plaintiff cannot resile from the admission made in the evidence by getting amended the plaint.

Keeping in view these facts, I find that the impugned order dated 18.4.2018 passed by the learned Civil Judge (Junior Division), Jalandhar, dismissing the application under Order 6 Rule 17 C.P.C. is correct and as per law, which does not require any interference from this Court.

Therefore, finding no merit in this revision petition, the same is dismissed.

May 8, 2018.
hsp

(Inderjit Singh)
Judge

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No