

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

**Civil Revision No.3866 of 2017 (O&M)
Date of Decision: 03.07.2018**

Savita Singh

.....Petitioner

Vs

Guru Jambheshwar University and anr.

....Respondents

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

Present: Mr. S.K. Gupta, Advocate for
Mr. Kanhiya Soni, Advocate
for the petitioner.

Mr. Vivek Chauhan, Advocate
for respondent No.1.

Mr. Ashok Arora, Advocate
for respondent No.2.

RAJ MOHAN SINGH, J.

[1]. Petitioner has challenged the order dated 11.01.2017 passed by the Civil Judge (Jr. Divn.) Hisar, whereby application for amendment of written statement filed by her was dismissed.

[2]. Brief facts are that plaintiff/respondent No.2 Smt. Raj Bala filed a civil suit for declaration to the effect that she was entitled to receive half ($\frac{1}{2}$) share of benefits/pensionary benefits of late Sh. Anil Kumar, who was working as clerk with defendant

No.1/respondent No.1 being class I heir and mother of the deceased Anil Kumar, who expired on 09.07.2015. Restraint order was sought from releasing the share of plaintiff to defendant No.2/petitioner.

[3]. In the written reply filed by defendant No.2/petitioner, she gave consent to give 1/2 (50%) of the pension and other benefits to the plaintiff, but thereafter filed an application for amendment of written statement on the ground that after judgment of Hon'ble the Apex Court, published in The Times of India (Delhi Edition) dated 30.09.2016, the defendant is entitled to get 100% pension after the death of Anil Kumar. On this premise the application for amendment in written statement was filed.

[4]. Learned counsel for the petitioner submitted that the amendment in the written statement has to be treated on different pedestal than the one meant for amendment of the plaint. The defendant/petitioner can take inconsistent pleas in the proposed amendment and can explain away the erroneous attempt made in the written statement

[5]. Learned counsel for respondent No.2, on the other hand by relying upon **Rajbir Singh and others vs. Tejinder Singh and others, 2015(3) R.C.R. (Civil) 221; Shanti Bhatia**

and others vs. Miss Priyanka and others, 2012(5) R.C.R. (Civil) 248; M/s Morgan Signature Towers Private Limited vs. M.P. Nagar and another, 2017(4) R.C.R. (Civil) 981 and Harbilas (deceased) through LRs vs. Balbir Singh, 2017(1) R.C.R. (Civil) 662 contended that there is no denial to the aforesaid position, but the attempt made in the written statement cannot be allowed to be withdrawn lightly on mere conjectures and surmises.

[6]. I have considered the submissions made by learned counsel for the parties.

[7]. Perusal of the pleadings and impugned order would show that the defendant No.2 in the original written statement conceded to the claim of the plaintiff to the extent of 50% on the ground that the plaintiff being mother of the deceased and mother-in-law of defendant No.2 is entitled to share in pension of her deceased son. The admission was made in the pleadings. Now by way of proposed amendment, petitioner/defendant No.2 wishes to withdraw the admission made in the pleadings.

[8]. Though the petitioner/defendant No.2 is entitled to take inconsistent stand in the proposed amendment, but at the same time defendant No.2/petitioner wants to withdraw the admission

made in the pleadings. At the most, defendant No.2/petitioner could have explained away the admission if, erroneously made in the original written statement. At the most the admission can be explained away by way of proposed amendment, but the same cannot be permitted to be withdrawn wholly in view of **Balbir Singh vs. Jaspal Singh, 2014(1) CCC 784 (P&H);** **S. Mala Reddy vs. Future Builders Co-operative Housing Society, 2013(2) CCC 845** and **Ram Niranjana Kajaria vs. Sheo Parkash Kajaria and others, 2015(4) R.C.R. (Civil) 850.**

The admission in the pleadings cannot be allowed to be withdrawn in a routine manner and in normal circumstances. At the most erroneous admission in the original written statement can be explained away.

[9]. The amendment in the pleadings can be allowed in order to avoid multiplicity of litigation. The same cannot be allowed to withdraw the admission made in the pleadings. In view of nature of controversy between the parties, it can be noticed that the petitioner is widow of Anil Kumar. She claims 100% pensionary benefits of the deceased whereas the plaintiff/respondent No.2 is the mother-in-law of the petitioner and mother of deceased Anil Kumar. She also falls under class I heir of the deceased. The proposed amendment was sought on the basis of some news items whereby widow is entitled to

100% pension benefits of the deceased.

[10]. In my considered opinion, the admission made in the original written statement cannot be allowed to be withdrawn in normal circumstances where the foundation has not been made with reference to any precedent or amendment in law. No material has been produced on record to establish the basis of proposed amendment. Even otherwise no case has been made out to disentitle the old mother-in-law to claim 50% of the pensionary benefits of her deceased son being class I heir.

[11]. In view of above, no ground is made to interfere in the impugned order 11.01.2017 passed the Civil Judge (Jr. Divn.) Hisar. This revision petition is accordingly dismissed.

July 03, 2018

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No