

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

Sr. No.231

**C.R. No.462 of 2016 (O&M)
Date of decision: 20.08.2018**

Yashpreet

....Petitioner

versus

Guru Nanak Girls College, Yamuna Nagar and othersRespondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Munish Gulati, Advocate
for the petitioner.

Ms. Alka Sarin, Advocate
for respondents No.1 to 3.

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DEEPAK SIBAL, J. (Oral)

A copy of the plaint and copy of the application under Order 6 Rule 17 CPC produced by learned counsel for respondents No.1 to 3 in Court today, are taken on record as Annexures Mark 'A' and Mark 'B'.

The present petition is directed against the order dated 12.10.2015 passed by the Civil Judge (Junior Division), Jagadhari, (for short – 'the Trial Court') through which an application filed by the petitioner under order 6 Rule 17 CPC for amendment of her plaint has been dismissed. Also is challenged herein the order dated 30.10.2015 passed by the Trial Court through which the petitioner's father has not been permitted to appear on her behalf as a witness.

After hearing learned counsel for the parties, the relevant facts which have been emerged are that way back in the year 2011, the petitioner filed a suit challenging therein the selection/appointment of respondent No.4 as Assistant Professor in English in Guru Nanak Girls College, Yamuna Nagar (for short – 'the College'). Mandatory injunction was also sought for directing respondents No.1 to 3 to appoint the petitioner in place of respondent no.4. On being put to notice, the respondents appeared before the Trial Court and denied the claim set up by the petitioner. After the Trial Court framed the issues, the petitioner led her evidence during the course of which, while appearing as her own witness, on 27.08.2013, the petitioner filed her affidavit with a prayer that the same be treated as her statement in her examination-in chief. Thereafter, for over two years, the petitioner failed to make herself available for cross-examination. On 06.10.2015, an application was filed by her under Order 6 Rule 17 CPC for amendment of her plaint to the effect that on 01.01.2013, she had been appointed on a regular post. Such application was dismissed by the Trial Court on 12.10.2015 through one of the orders under challenge in the present proceedings. Thereafter, the petitioner's father, armed with a special power of attorney given to him by the petitioner filed an application seeking therein to be permitted to appear as a witness on behalf of the petitioner. Such permission was not granted by the Court through order dated 30.10.2015 which is also assailed in the present petition.

Learned counsel for the petitioner submits that the Trial Court erred in rejecting the prayers made by the petitioner for amendment of her plaint as also for not permitting her father to depose on her behalf. It is submitted that the amendment sought to be made was crucial for the just and

proper decision of the suit and that since the petitioner was not available she could and rightly appointed her father as her attorney to depose on her behalf.

Learned counsel for the respondents while defending the impugned orders refutes the submissions made on behalf of the petitioners.

After hearing learned counsel for the parties, no merit is found in the present petition.

In the amendment application the petitioner seeks to plead a fact that she has been appointed against a regular post on 01.01.2013. However, the application has been filed on 06.05.2015, i.e., after an unexplained delay of 02 years and 10 months.

Even otherwise, no error in the order of the Trial Court rejecting the petitioner's amendment application as such application filed by the petitioner is found to be absolutely vague. It is nowhere stated as to on which post the petitioner has been appointed and where. The relevance of such appointment is neither coming from the application nor is shown to this Court. A specific query was put to the learned counsel for the petitioner to explain as to what would be the relevance of the amendment sought by the petitioner. Such query evoked no response. Thus, the Trial Court has rightly rejected the application filed by the petitioner for amendment for her plaint.

It is true that a father, who has a special power of attorney in his favour can appear in the Court on behalf of the executant especially when such executant is his daughter and is unable to appear for justifiable reasons. However, in the facts of the present case, the petitioner herself had deposed in the Trial Court in her examination-in-chief. Thereafter, she

had made herself unavailable for over two years. Once she had made herself available for her examination-in-chief then it would be highly improper to cross-examine somebody else on her behalf even if she had given a special power of attorney to him. Thus, no perversity is found in this order as well passed by the Trial Court declining the petitioner's father to appear on her behalf for the purpose of cross-examination.

In view of the above, no merit is found in the present petition.

Dismissed.

(DEEPAK SIBAL)
JUDGE

August 20, 2018
Jyoti 1

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No