

203 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-5217-2015

Date of decision : 21.11.2018

Ajay Jindal

..... Petitioner

versus

M/s Harbans Lal and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Kunal Mulwani, Advocate for the petitioner.

Mr. Anil Bansal, Advocate for respondents No.1(a), (e) and (g).

AMIT RAWAL, J. (ORAL)

The petitioner-plaintiff is aggrieved of the impugned order whereby the application for amendment of the plaint for incorporating the following para:-

“That the amount advanced to deceased Sh.Harbans Lal has been deposited by him in his individual saving account bearing account No. 65017264677 with State Bank of Patiala Grain Market, Nabha which is his individual account instead of depositing the same in the account of the firm and in case the Hon'ble Court comes to the conclusion that the firm of which Harbans Lal was proprietor is not liable for any liability then in the alternative, the defendants are even liable to make the payment of the suit amount to the plaintiff being the sole surviving heirs of Harbans Lal who has taken the amount from the plaintiff on credit.”

in the plaint, has been rejected.

Mr.Kunal Mulwani, learned counsel appearing for the petitioner submitted that as per the evidence brought on record it surfaced that the

plaintiff had filed a suit for recovery but in the evidence it was deciphered that an amount of Rs. 10,95,000/- was deposited in the individual account of Harbans Lal instead in account of proprietorship firm. It is in these circumstances amendment was sought and evidence in this regard has already been led.

Per contra Mr. Anil Bansal, learned counsel appearing on behalf of the contesting respondents submitted that there is no interim order. The suit has already reached the stage of final arguments. It would tantamount to de novo trial. The amendment sought does not fall within the expression 'despite exercise of due diligence' and, therefore, had rightly been dismissed and prayed for dismissal of the revision petition.

I have heard learned counsel for the parties and appraised the paper book and am of the view that amendment sought would help the court in adjudication of the lis particularly when the suit is for recovery. The entire amount stated to have been deposited by the proprietor in the account of the firm. It is a hypothetical objection which cannot be permitted particularly when an undertaking has been given that no fresh evidence in support of the proposed amendment will be led. It would not alter the nature and character of the suit or prejudice the defence of the defendants.

Resultantly the impugned order is set aside. The amendment is allowed subject to payment of costs of Rs. 5000/-.

Petition stands disposed of.

(AMIT RAWAL)
JUDGE

21.11.2018

sunita

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No