

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.4942 of 2017 (O&M)

Date of decision:11.12.2018

Paramjit Singh

... Petitioner

Vs.

Satnam Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Ms. Benti Kaur, Advocate
for the petitioner.

Mr. Rishu Mahajan, Advocate
for respondents no.1 and 2.

AMIT RAWAL J. (Oral)

The present revision petition at the instance of the petitioner-plaintiff is directed against the impugned order dated 24.05.2017 (Annexure P-6), whereby, an application for amendment of the written statement at the stage of defendants' evidence to incorporate the plea of res judicata; objection under the provision of Order 2 Rule 2 CPC and as well as under Section 10 CPC, has been allowed subject to costs of Rs.1000/-.

Ms. Benti Kaur, learned counsel appearing on behalf of the petitioner-plaintiff submitted that once the trial has begun, the amendment could not be permitted as the defendants were in the knowledge of the suit who have nothing to do with the same as they were not party. It would totally deviate from the main issue, therefore, the impugned order is liable

to be set aside.

Mr. Rishu Mahajan, learned counsel appearing on behalf of respondents No.1 and 2 submitted that no harm and prejudice would be caused to the plaintiff as it is a preliminary objection which can be adjudicated at the final stage.

I have heard the learned counsel for the parties and appraised the paper book.

The amendment sought to be incorporated by adding res judicata; objection under the provision of Order 2 Rule 2 CPC and as well as under Section 10 CPC is purely legal. The aforementioned question will be seen by the trial Court at the final stage.

It is made clear that even if the issues are not framed in this regard and parties can lead evidence in view of the law laid down by the Hon'ble Supreme Court in **P. Purushottam Reddy vs. M/s Pratap Steels Ltd. 2002(2) RCR (Civil) 70**, there is no need of framing of separate issue and other party can lead the evidence.

In view of above, the impugned order cannot be said to be suffering from illegality and perversity. Consequently, the revision petition is dismissed.

(AMIT RAWAL)
JUDGE

December 11, 2018
savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No