IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No.5325 of 2017
Date of Decision: May 09, 2018

Mohan Lal

...Petitioner

Versus

Subhash Chander & another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr.Deepak Verma, Advocate,
for the petitioner.

Mr.Manjul Sud, Advocate,
for the respondents.

*****

AMIT RAWAL, J. (Oral)

The present revision is directed against the impugned order dated 1.5.2017, whereby application seeking amendment of the written statement under Order 6 Rule 17 read with Section 151 CPC, has been dismissed.

Mr.Deepak Verma, learned counsel appearing on behalf of the petitioner-defendant submitted that the respondent-plaintiffs instituted the suit for specific performance of the agreement to sell dated 9.12.2011 and in the aforementioned suit, the petitioner-defendant filed written statement Annexure P-2. However, on the change of the counsel, it was found that there were certain errors in the written statement, which are sought to be incorporated by moving the application, which has erroneously been dismissed. The aforementioned amendment is clarificatory and explanatory in nature and does not tantamount to withdrawing of the admission. The other party is entitled to rebut the same and lead evidence.

Ramesh Kumar
2018.05.14 15:38
I attest to the accuracy and
integrity of this document

Mr.Manjul Sud, learned counsel appearing on behalf of the respondent-plaintiffs submitted that on going through Para 3 of the application, the entire tenor and mode of the written statement sought to be amended tantamounts to withdrawing of the admission as in the previously filed written statement, the agreement to sell had been admitted, but now he wants to wriggle out from the admission and, therefore, the application is liable to be dismissed and rightly so the trial Court did.

I have heard the learned counsel for the parties, appraised the paper book and of the view that there is no force and merit in the submissions of Mr.Verma, for, on plain and simple reading of the application for amendment at page 40 of the paper book, wherein at Para No.2 after the word "plaint" in the written statement, the petitioner-defendant wants to withdraw the admission qua the agreement to sell when a valuable right had accrued to the respondent-plaintiffs, which cannot be permitted to be taken away unless and until the explanation given in the application is bonafide which would entitle the defendant to seek amendment. There is no such averment that the written statement was filed under compelling circumstances or some fraud or misrepresentation was yielded. In my view, the petitioners made to attempt to over come the admission, which cannot be permitted.

For the reasons stated above, the order cannot be said to be perverse. No ground for interference is made out.

Revision petition stands dismissed.

May 09, 2018 **(AMIT RAWAL)**
ramesh **JUDGE**

Whether speaking/reasoned **Yes/No**
Whether Reportable: **Yes/No**

Ramesh Kumar
2018.05.14 15:38
I attest to the accuracy and
integrity of this document