

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 121

CR-5693-2018 (O&M)

Date of decision : 30.08.2018

The Punjab State Cooperative
Supply and Marketing Federation Ltd.

..... Petitioner

VERSUS

M/s R. V. Rice Mills, Dhuri and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Ms. Deepali Puri, Advocate, for the petitioner.

DEEPAK SIBAL, J. (ORAL)

The present petition is directed against the order dated 29.05.2018, passed by the Additional Civil Judge (Senior Division), Dhuri (for short, the Trial Court) through which an application filed by the petitioner under Order 6 Rule 17 CPC seeking therein to amend its written statement has been dismissed.

The facts in brief which are required to be noticed for adjudicating upon the present petition are that on 05.09.2014 respondent No. 1 filed a suit seeking therein mandatory injunction to direct the petitioner and the other defendants in the suit to allot paddy for milling for the year 2014-15. It was further prayed that the surety bonds and affidavits alleged to have been issued by respondent No. 1 on behalf of M/s T. S. Agro be declared null and void. Upon notice, the petitioner, who was defendant No. 6 in the suit, appeared and filed its written statement. Thereafter the issues were framed and all parties led their respective evidence. When the matter was listed for final arguments, the petitioner filed an application under Order 6 Rule 17 CPC seeking amendment in its written statement to the effect

that it be allowed to plead therein with regard to the filing of two affidavits on behalf of respondent No. 1 wherein it had been undertaken on behalf of respondent No. 1 that if their premises are allotted to any other food grain agency for the period 2009-10 and their lease party committed any default, they shall be liable to pay the whole amount and that the partners of respondent No. 1 undertake not to sell or dispose of 2 bighas and 9 biswas of land owned by them in village Manwala, Tehsil Dhuri till the liability of the lessee would stand discharged. On dismissal of the amendment application, the present petition has been preferred.

Learned counsel for the petitioner submits that through the sought amendment the petitioner was only seeking to explain and elaborate the pleas already taken by it in its written statement and therefore since the amendment did not change the nature of the suit, the same should have been allowed by the Trial Court.

On consideration of afore submissions made by learned counsel for the petitioner, not merit is found in the same.

It is not disputed that in September, 2014 respondent No. 1 had filed an injunction suit in which both the parties had led and closed their respective evidence and when the matter was posted for final arguments the petitioner preferred an application under Order 6 Rule 17 CPC for amending its written statement to the effect that it be now allowed to plead the filing of two affidavits on behalf of respondent No. 1 wherein it had been undertaken on behalf of respondent No. 1 that if their premises are allotted to any other food grain agency for the period 2009-10 and their lease party committed any default, they shall be liable to pay the whole amount and that the

partners of respondent No. 1 would not to sell or dispose of 2 bighas and 9 biswas of land owned by them in village Manwala, Tehsil Dhuri till the liability of the lessee stood discharged. It was not disclosed by the petitioner before the Trial Court and it is not disclosed even before this Court as to when, where and how did the petitioner gain knowledge of the afore referred two affidavits. In the absence of such information the amendment which is sought by the petitioner cannot be allowed to be now introduced as the same is squarely hit by the proviso to Order 6 Rule 17 CPC especially when admittedly the entire evidence has been led by both the parties to the suit.

In view of the above, no error is found in the order of the Trial Court dismissing the application filed by the petitioner under Order 6 Rule 17 CPC seeking to amend its written statement.

Dismissed.

30.08.2018
shamsher

[DEEPAK SIBAL]
JUDGE

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