

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

Sr. No.119

**C.R. No.6561 of 2018
Date of decision: 01.10.2018**

Manju Rani Pathania

....Petitioner

versus

The Chairman, Haryana Bijli Vitran Nigam Limited and others

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr.Om Pal Sharma, Advocate
for the petitioner.

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DEEPAK SIBAL, J. (Oral)

The present petition is directed against the order dated 07.09.2018 passed by the Additional District Judge, Panchkula (for short – the Appellate Court) through which an application filed by the petitioner under Order 6 Rule 17 CPC for amendment of her plaint has been dismissed.

Briefly stated, the facts leading to the filing of the present petition are that the petitioner filed a suit seeking therein mandatory injunction to direct respondents/defendants No.1 to 5 to release in her favour 50% share of pension and other retiral benefits of respondent/defendant No.6 on the ground that even though the petitioner was respondent/defendant No.6's wife, she and her children were not being maintained by him. Her suit was dismissed by the Civil Judge (Junior Division), Panchkula (for short – the Trial Court) against which the petitioner filed an appeal during the pendency of which an application was filed by her under Order 6 Rule 17 CPC to amend her plaint to convert her injunction suit to a suit under the Hindu Adoption and Maintenance Act,

1956 (for short – the Act) for grant of maintenance to her and her children. The amendment application was dismissed by the Appellate Court occasioning the filing of the present petition.

Learned counsel for the petitioner has been heard.

The petitioner's suit was for mandatory injunction to direct the official respondents No.1 to 5 to release 50% share of pension and other retiral benefits of respondent No.6 to her on the ground that respondent No.6 being her husband had failed to maintain her and her children. Her suit was dismissed by the Trial Court against which she had preferred an appeal during the pendency of which an application was preferred by her under Order 6 Rule 17 CPC to convert her suit from an injunction suit to a suit under Sections 18 and 27 of the Act with a further prayer for issuance of directions to the official respondents No.1 to 5 to pay to the petitioner maintenance out of the pension being given by them to respondent No.6.

From the above it is clear that through an amendment, the petitioner seeks to set up an entirely new case which cannot be permitted especially when same is sought to be done at the appellate stage after seeking to set at naught an order of the Trial Court rejecting the petitioner's suit.

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

Dismissed.

(DEEPAK SIBAL)
JUDGE

October 01, 2018

Jyoti 1

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No