

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

119

CR No.7672 of 2016 (O & M)
Date of Decision:02.05.2018

Gurcharan Singh

...Petitioner

Versus

Sukhdev Kumar

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. J.K. Singla, Advocate
for the petitioner.

Mr. Siddarth Gupta, Advocate
for the respondent.

ANIL KSHETARPAL, J.(Oral)

Defendant-petitioner is in the revision petition against the order dated 08.07.2016 whereby the learned trial Court has corrected its mistake and fixed the case for the plaintiff's evidence. Entire dispute in the present case is with respect to non-payment of cost imposed by the Court while allowing the application for amendment of the plaint vide order dated 22.03.2016. In fact, on 22.03.2016, two applications for amendment of the pleadings was allowed. One for amendment of the plaint and second for amendment of the written statement. As per order recorded by the Court on 01.04.2016, 24.04.2016 and 09.05.2016, it was the defendant, who had refused to pay the cost. It is nowhere recorded that the plaintiff had not paid the cost. The amended plaint was already filed along with the application for amendment, therefore, it was part of the record. Defendant-petitioner filed an application for rejection of the amended plaint as the cost has not been paid. Learned Court passed an order on 09.05.2016. However, later on

fixed for plaintiff's evidence. Court recalled the order dated 09.05.2016 and fixed the case for plaintiff's evidence. Grievance of the defendant-petitioner is that since the cost has been paid, therefore, the amended plaint filed is liable to be rejected. On the other hand, learned counsel for the respondent submits that the cost was paid, however, inadvertently receipt was not taken.

Be that as it may, once the case has proceeded and fixed for evidence, the trial of the case should not be put on hold on such small issues. Learned counsel for the respondent-plaintiff undertake to pay the cost by way of a cross cheque in favour of the defendant within 10 days.

In view thereof, the revision petition is dismissed.

02.05.2018
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No