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

CR No. 811 of 2015 (O&M)
Date of Decision: 18.07.2018

Harinder Pal Singh and another

....Petitioners

Vs

Paramjit Singh

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Ranjit Saini, Advocate,
for the petitioners.

Mr. Parminder Singh, Advocate,
for the respondent.

RAJ MOHAN SINGH, J.(Oral)

1. Petitioners have assailed the order dated 20.01.2015 passed by Civil Judge (Junior Division), Karnal whereby the application under Order 6 Rule 17 CPC filed by the defendant for amendment of written statement was allowed.

2. On 09.02.2015, following order was passed by the High Court:-

“Counsel contends that there is no specific proof that the wife of the respondent namely Narinder Kaur was the owner of the property and, therefore, the application for amendment has been wrongly allowed

especially since trial had commenced and the plaintiff's evidence had already been closed. It is further submitted that there was no due diligence as such since the suit was for specific performance and the respondent would have pleaded that he was not the owner of the property and, therefore, would have no locus standi to execute the agreement to sell.

Notice of motion for 30.07.2015.

Further proceedings before the trial Court shall remain stayed.”

3. Original written statement was filed by the defendant thereby admitting him to be owner of the suit property which is subject matter of agreement to sell.

4. In the proposed amendment, the defendant wishes to deny ownership of the defendant, rather claimed that his wife is owner of the same. In a way, admission made in the original written statement is sought to be withdrawn even though law of amendment so far as written statement is concerned, is liberal to the extent that the defendant can incorporate inconsistent plea by way of amendment, still it can be seen that admission made in the pleadings cannot be withdrawn in the manner as

sought by the defendant-respondent.

5. In **Balbir Singh vs Jaspal Singh, 2014(1) CCC 784 (P&H)**, it was held that admission in the pleadings cannot be allowed to be withdrawn. The Hon'ble Apex Court in **S. Mala Reddy vs Future Builders Co-operative Housing Society, 2013(2) CCC 845** also held that the aforesaid proposition i.e. admission in the pleadings cannot be allowed to be withdrawn in normal circumstances.

6. It is true that all bonafide amendments should be allowed. The amendment of the written statement is to be liberally construed as the same stands on different pedestal than that of plaint. At the same time, it can be appreciated that the admission, if any, made in the pleadings cannot be allowed to be withdrawn in normal circumstances. The admission made in the evidence can be explained away at a subsequent stage.

7. In **Ram Niranjana Kajaria vs Sheo Parkash Kajaria and others, 2015(4) RCR (Civil) 580**, the explanation given in the context of disclosing the circumstances in which admission was made and sought to be withdrawn was negated by the Court.

8. Evidently, by way of proposed amendment, admission of fact originally made in the plaint is sought to be withdrawn. The said admission is not liable to be withdrawn at the instance

of the defendant who happens to be the owner of the property as per his admission made at the time of execution of agreement to sell.

9. In view of above, this revision petition is allowed. The impugned order is set aside.

10. Normal consequences to follow.

18.07.2018

Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No