

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

C.R. No.8174 of 2017

Date of Decision.23.04.2018

Aatma Ram

.....Petitioner

Vs

Varun Kumar

.....Respondent

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Rajesh Narang, Advocate
for the petitioner.

Mr. Yogesh Kumar, Advocate
for the respondent.

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AMIT RAWAL J.(ORAL)

The petitioner-defendant is aggrieved of the impugned order whereby the application seeking amendment of the written statement has been dismissed.

Mr. Rajesh Narang, learned counsel appearing on behalf of the petitioner submitted that the respondent-plaintiff instituted the suit for recovery of ₹10,70,000/-. The defendant filed the written statement and in paragraph 6(1) gave explanation, particularly, with regard to settlement of full and final settlement of account after sale of Rabbi 2015 crop stating that the defendant had left the dealing with the plaintiff when he received ₹9,30,000/- from the plaintiff by virtue of cheque in question. The story put forward in the plaint is totally fictitious and forged. However, during the pendency of the suit, at the stage of defendant's evidence, an application (Annexure P-3) for amendment of the written statement was filed seeking certain paras on merits and preliminary objection to be corrected as the case of the defendant was that there was no dealing with the plaintiff. The

aforementioned application has erroneously been dismissed. The parameters for allowing the amendment in the written statement are liberal than of the plaint. No harm and prejudice would be caused to the respondent-plaintiff as the amendment does not amount to withdrawing of any admission, thus, urges this Court for setting aside of the order under challenge.

Per contra, Mr. Yogesh Kumar, learned counsel appearing on behalf of the respondent submitted that the application is bereft of reasoning which is mandatory requirement. The application is most vague and cryptic as it does not disclose to which paragraph has to be amended. Under the garb of such vagueness, the defendant intends to withdraw admission, which is not permissible in the eyes of law, thus, urges this Court for dismissal of the revision petition.

I have heard 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. Narang. It would be apt to reproduce para 2 of the application, which is as under:

“2. That the defendant with bona fide intention filed written statement by pleading that he had dealings with commission agency of father of plaintiff namely M/s Raman Kumar Gokal Chand. But now while preparing the case for evidence of defendant, it revealed and transpired that inadvertently some clerical errors were occurred in the preliminary objection No.7 (wrongly numbered as 1 after 6) as well as some paragraphs of reply on merits of written statement. Taking into consideration the fact that the defendant never remained in dealings with the plaintiff, rather he had been dealing with

commission agency of father of the plaintiff known as M/s Raman Kumar Gokal Chand, clerical errors/mistakes occurred at certain places in preliminary objection No.7 (wrongly numbered as 1 after 6) and para No.3 of the reply on merits of written statement are required/sought to be removed and rectified with due permission of the Hon'ble Court."

It does not make any head and tale as to which amendment has to be caused. There has to be specific pleading as to where is the error and which part or word of the written statement has to be amended. Therefore, the order dismissing the application cannot be said to be without jurisdiction. Under the vagueness, the defendant can always come out with a plea of withdrawing of admission, which would tantamount to take away a valuable right accrued in favour of the plaintiff.

In view of the aforementioned, the order under challenge does not call for interference as the same cannot be said to be passed without jurisdiction or beyond jurisdiction. No ground for interference is made out. The revision petition is dismissed.

(AMIT RAWAL)
JUDGE

April 23, 2018
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No