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

CR No. 3856 of 2018

Date of Decision: 11.04.2019

Malwinder Singh

-Petitioner

Vs

Veena Garg and others

-Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Arihant Jain, Advocate, and
Mr. Arun Jindal, Advocate,
for the petitioner.

Mr. M.S. Viridi, Advocate,
for respondent No.1.

Mr. Indervir Singh Pabla, Advocate, for
Mr. Deepak Aggarwal, Advocate,
for respondents No.4,5,6,11 and 12.

RAJ MOHAN SINGH, J. (ORAL)

1. Petitioner has assailed the order dated 05.05.2018 passed by Additional Civil Judge (Senior Division), Nabha vide which application filed by defendant-petitioner for amendment of written statement was dismissed.

2. Perusal of the record would show that initially the suit was filed for permanent injunction, thereafter, the same was allowed to be converted in a suit for specific performance. Issues were framed in a suit for permanent injunction and the

same were carried out as such without re-framing the same.

3. An application was filed under Order 14 Rules 1,2 and 5 CPC. Second application was filed under Order 22 Rule 4 CPC. Both the applications were dismissed. Civil Revision No.3459 of 2014 was filed in the High Court which was ultimately allowed vide order dated 13.12.2017.

4. The operative part of order dated 13.12.2017 reads as under:-

“In view of the above, revision petition is allowed and the impugned order dated 15.03.2014 is set aside. The trial Court is directed to proceed further in accordance with law with regarding to the application dated 06.04.2012 under Order 14 Rule 1,2 and 5 read with Section 151 CPC (Annexure P-2) for reframing the additional issues and application under Order 22 Rule 4 CPC read with Section 151 for impleading the LRs of respondent No.18 i.e. Hardial Singh (Annexure P-3) is also allowed so that all the legal representatives of respondent No.18 can be impleaded as party.”

5. After decision of the aforesaid revision petition, an application was filed for amendment of written statement on

09.04.2018 on the premise that since the issues are allowed to be re-framed, therefore, in order to lead evidence on the amended issues, there has to be a foundation in the pleadings on record.

6. Prayer for amendment has been dismissed primarily on the ground of delay.

7. It is a settled principle of law that all bonafide amendments are to be allowed. Sole ground of delay is not sufficient to discard the plea of amendment. Re-framing of additional issues besides bringing on record LRs of deceased-respondent No.18 was allowed by this Court in Civil Revision No.3459 of 2014.

8. Amendment in the written statement has to be liberally construed.

9. At the time of issuance of notice of motion on 06.07.2018, proceedings were allowed to go on, however, passing of final order was stayed.

10. In view of aforesaid facts and circumstances of the case, indulgence can be granted in favour of the petitioner to amend the written statement in accordance with law.

11. Accordingly, this revision petition is allowed, however, subject to payment of costs of Rs.15,000/- to be paid to the plaintiff.

12. Payment of costs shall be the condition precedent for granting indulgence by the trial Court in the aforesaid context.

13. Normal consequences to follow.

11.04.2019

Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No