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

CR No. 5664 of 2017 (O&M)
Date of Decision: 29.01.2019

Varinderjit Singh

-Petitioner

Vs

Karamjit Singh Gill and others

-Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. M.S. Gill, Advocate,
for the petitioner.

None for respondent No.1.

RAJ MOHAN SINGH, J. (ORAL)

Petitioner has preferred this revision petition against the order dated 08.08.2017 passed by Additional Sessions Judge, Moga vide which application under Section 151 CPC for adding Grounds of Appeal in the original grounds was dismissed.

The lower Appellate Court has held that amendment in the pleadings can only be allowed under Order 6 Rule 17 CPC and the memo of appeal would not fall within the meaning of Order 6 Rule 1 CPC.

In view of ratio of **State of Maharashtra vs M/s Hindustan Construction Company Limited, 2010 AIR (SC) 1299**, the issue is no more *res integra*. Amendment of pleadings

at appellate stage can also be allowed in terms of Order 6 Rule 17 read with Rules 2 and 3 CPC.

The aforesaid provision entitles the appellate Court to grant leave to amend the memorandum of appeal which has the same position like that of plaint in the suit.

Order 41 Rule 2 CPC makes a provision that the appellant shall not, except by leave of the Court, urge or be heard in support of any ground of objection not set forth in the memorandum of appeal, but the Appellate Court, in deciding the appeal shall not have confined to the grounds of objection set forth in the appeal or taken by leave of the Court.

Order 41 Rule 3 CPC provides that where the memorandum of appeal is not drawn up as prescribed, it may be rejected or be returned to the appellant for the purpose of being amended within a time to be fixed by the Court or be amended then and there.

The aforesaid provision leaves no manner of doubt that the appellate Court has power to grant leave to amend memorandum of appeal. When an appeal is preferred, the memorandum of appeal has the same position like the plaint in a suit in view of Order 41 Rule 3 CPC.

Reference can be made to **Harcharan vs State of Haryana, (1982) 3 SCC 408** also.

For the reasons recorded hereinabove, impugned order dated 08.08.2017 is set aside and the revision petition is allowed.

Normal consequences to follow.

29.01.2019
Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

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