

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

Civil Revision No.1229 of 2019
Date of Decision:22.02.2019

Dr. Sweety Bains

.....Petitioner

Vs

Sukhbir Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. K.L. Kohli, Advocate
for the petitioner.

RAJ MOHAN SINGH, J.

[1]. Present revision petition has been preferred by the petitioner against the order dated 15.12.2018 passed by the Civil Judge (Jr. Divn.) Amritsar, vide which the application filed by the petitioner/defendant No.5 under Order 6 Rule 17 CPC for amendment of the written statement was dismissed.

[2]. Brief facts are that a suit for possession by way of specific performance of agreement to sell dated 14.04.2007 was filed by the plaintiffs. Defendant No.1 is the father of petitioner/defendant No.5. Defendants No.2 and 3 are the brothers of the petitioner and defendant No.4 is the sister of the petitioner. Evidence of defendants No.1 to 4 have already been closed on 23.10.2018 by order of the Court.

[3]. In the earlier written statement filed by the petitioner/defendant No.5, she has admitted the execution of agreement to sell in favour of the plaintiffs. Petitioner appeared in the Court on 09.12.2010 through her Advocate and filed written statement on 15.12.2010/24.01.2011. No pleadings were made in the written statement as to the medical ailment/depression of the petitioner. Defendants No.1 to 4 also did not disclose any such disorder viz-a-viz. health of the petitioner in their written statement. Petitioner/defendant No.5 has appeared in her examination-in-chief as DW-3. It is only at that stage, she averred her depression on account of matrimonial discord with her husband.

[4]. By way of proposed amendment the petitioner/defendant No.5 seeks to withdraw the admission earlier made in the original statement. The case before the trial Court is fixed for cross-examination of the petitioner/defendant No.5.

[5]. Earlier a Civil Revision No.290 of 2017 was filed by defendant No.6 against the plaintiffs, wherein the petitioner was impleaded as one of the respondents. The said revision petition was filed against the order dated 24.10.2016 passed by the trial Court dismissing the application under Section 10 CPC for staying the proceedings of the subsequent suit for specific performance filed by the plaintiffs against the defendants. It was

noticed that the suit for specific performance on the basis of agreement to sell dated 14.04.2007 was decreed by the trial Court, however appeal was accepted against which Regular Second Appeal was pending.

[6]. On 04.12.2017, it was brought to the notice of the Court in the aforesaid civil revision that vide order dated 13.11.2017, RSA Nos.5204 and 4245 of 2015 had been dismissed by the Co-ordinate Bench. In view of decision of the Regular Second Appeals, it was held that the very basis of seeking stay on the proceedings of the subsequent suit had become non-existent. Consequently the revision petition was dismissed vide the aforesaid.

[7]. In the present revision petition, petitioner/defendant No.5 seeks to withdraw the admission made in the pleadings of the earlier written statement. In view of law laid down by the Hon'ble Apex Court in **Mashyak Grihnirman Sahakari Sanstha Maryadit vs. Usman Habib Dhuka, 2013(2) CCC 811** and **S. Malla Reddy vs. M/s Future Builders Co-operative Housing Society, 2013(2) CCC 845**, petitioner cannot be permitted to withdraw admission in the pleadings of the earlier written statement that too at a belated stage in order to avoid inevitable consequence of such admission. Amendment in the pleadings cannot be allowed to be withdrawn in ordinary circumstances.

[8]. For the reasons recorded hereinabove, the impugned order does not warrant any interference. This revision petition is accordingly dismissed.

February 22, 2019

(RAJ MOHAN SINGH)
JUDGE

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Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No