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

**Civil Revision No.314 of 2019 (O&M)
Date of Decision: 09.12.2019**

VINOD KUMAR

.....Petitioner

Vs

SATISH KUMAR

....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. R.S. Longia, Advocate
for the petitioner.

None for the respondent.

RAJ MOHAN SINGH, J. (Oral)

[1]. Petitioner has laid challenge to the order dated 21.11.2018 passed by the Addl. Civil Judge (Senior Division) Shahabad, vide which application for amendment of the written statement filed by the petitioner was dismissed.

[2]. Notice of motion was issued on the ground that the petitioner does not wish to withdraw any admission, rather seeks to explain the original stand by way of proposed amendment.

[3]. There is no representation on behalf of the respondent despite service. Even on last date of hearing, none appeared on

behalf of the respondent. He is proceeded against ex parte.

[4]. I have considered the submissions made by learned counsel for the petitioner.

[5]. In the original written statement filed by the petitioner, it was pleaded by him that Usha Kaur wife of Baldev Singh was owner of the suit property. She entered into agreement to sell with Ram Diya on 11.10.2003. Ram Diya filed a suit for specific performance against Usha Kaur on the basis of agreement to sell which is pending in the Court of Civil Judge, Shahabad. Thereafter, there is some mention about agreement to sell entered into between defendant and Ram Diya and agreement to sell dated 26.07.2013 executed between plaintiff and the defendant. Ram Diya is witness to the aforesaid agreement to sell. Plaintiff is brother-in-law of Ram Diya. In the stand taken by the defendant/petitioner, the claim has been denied on the ground of fraud, forgery and cheating.

[6]. In the proposed written statement, the petitioner has introduced two persons namely Amar Singh and Devender Kumar in order to show the manner in which the fraud was committed with the defendant.

[7]. As per para No.5 of the proposed written statement, the petitioner has pleaded that Amar Singh had obtained signature of the defendant on blank papers and power of attorney and

thereafter filed the original written statement after giving assurance to the defendant that he will make the plaintiff and Devender Kumar to understand and will get the suit dismissed. Even receipt of earnest money was also denied.

[8]. In the original stand taken by the petitioner, the agreement to sell is claimed to be the result of fraud, forgery and cheating. In the proposed amendment, the manner of fraud is sought to be explained by introducing role of Amar Singh and Devender Kumar.

[9]. It is a settled principle of law that all bona fide amendments should be allowed. The amendment in the written statement is to be liberally construed and the same stand on different pedestal than that of amendment in the plaint. Defendant can take even inconsistent plea in the written statement. Even though the case is fixed for defendant's evidence, the delay in itself is no ground to discard the amendment in the written statement, particularly when no admission of the kind as shown in the impugned order is sought to be withdrawn. The plaintiff would get ample opportunity to rebut the evidence led by the defendant/petitioner on the basis of amendment in the written statement.

[10]. For the reasons recorded hereinabove, I accept this revision petition. Consequently, the impugned dated 21.11.2018

passed by the Addl. Civil Judge (Senior Division) Shahabad is set aside. Normal consequences to follow.

December 09, 2019

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Whether speaking/reasoned
Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No
Yes/No