

In the High Court of Punjab and Haryana at Chandigarh

Date of Decision: 17.2.2020

CR No. 872 of 2020

Hardwari Lal Bhandari

---Petitioner

versus

Anil Bhandari and others

---Respondents

CR No. 848 of 2020

Ashok Kumar Bhandari

---Petitioner

versus

Anil Bhandari and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Aayush Gupta, Advocate
for the petitioner**

Rekha Mittal, J.

This order will dispose of CR Nos. 848 and 872 of 2020 as identical questions of law and fact are involved for adjudication. For facility of reference, facts are taken from CR No. 872 of 2020.

Challenge in the present petition has been directed against order dated 19.10.2019 passed by the Civil Judge (Junior Division), Ludhiana whereby applications for amendment of the plaint and reply to counter claim have been disposed of vide common order aforesaid and respondents-plaintiffs have been allowed to amend the plaint as well as the

reply to counter claim.

Counsel for the petitioner would argue that in case the proposed amendment is allowed, the same would change nature of the suit. He would further argue that since the applications for amendment have been filed after commencement of trial, the same are hit by the proviso appended to Rule 17 of Order 6 CPC, dealing with amendment of pleadings.

I have heard counsel for the petitioners, perused the applications for amendment and various annexures appended to the petition.

Indisputably, applications for amendment were filed even before any evidence could be adduced by either of the parties.

Counsel for the petitioner, in response to a query, is not in a position to dispute that proposed amendment is necessary for complete and effective adjudication of the matter in controversy. He has also not disputed that in case the proposed amendment is allowed, it will cause such a prejudice to the petitioner for which costs is not a remedy. It is also not the plea of the petitioner that by way of proposed amendment, respondents have sought to introduce a claim/relief which is otherwise barred by limitation.

The Hon'ble Supreme Court in ***“Revajeetu Builders and Developers vs. Narayanaswamy and sons and others”***, 2010(1) RCR (Civil) 27, has culled out certain principles to be taken into consideration while dealing with the application for amendment of pleadings. The relevant extract from para 67 and 68 of the judgment reads as follows:-

“67. On critically analyzing both the English and Indian cases, some basic principles emerge which ought to be taken into consideration while allowing or rejecting the application for

amendment.

(1) Whether the amendment sought is imperative for proper and effective adjudication of the case?

(2) Whether the application for amendment is bona fide or mala fide?

(3) The amendment should not cause such prejudice to the other side which cannot be compensated adequately in terms of money;

(4) Refusing amendment would in fact lead to injustice or lead to multiple litigation;

(5) Whether the proposed amendment constitutionally or fundamentally changes the nature and character of the case?

And

(6) As a general rule, the court should decline amendments if a fresh suit on the amended claims would be barred by limitation on the date of application.

68. These are some of the important factors which may be kept in mind while dealing with application filed under Order 6 Rule 17. These are only illustrative and not exhaustive.”

When examined in the light of aforesaid principles, I do not find merit in contention of the petitioner that it is a fit case for intervention in exercise of extraordinary jurisdiction of the Court.

For the foregoing reasons, finding no merit, the petitions fail and are accordingly dismissed in limine.

(Rekha Mittal)
Judge

17.2.2020.

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No