

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

CR 9222 of 2018 (O&M)

Date of Decision: March 03, 2020

Vijay Singh Beniwal

...Petitioner

Versus

Pawan Kumar and another

... Respondents

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. Sanjiv Gupta, Advocate
for the petitioner.

Mr. Amarjit Markan, Advocate
for the respondent.

FATEH DEEP SINGH, J. (Oral)

This order shall dispose off the present civil revision whereby the challenge has been made to two different orders one dated 30.07.2018 dismissing an application under Order 6 Rule 17 read with Section 151 CPC for amendment of the plaint moved by present petitioner then plaintiff Vijay Singh Benniwal and another order dated 26.11.2018 seeking review of order dated 30.07.2018 both passed by the same Court of learned

Additional Civil Judge, Senior Division, Karnal and on account of consanguinity both are being disposed off together.

Heard Mr. Sanjiv Gupta, Advocate for the petitioner and Mr. Amarjit Markan, Advocate for the respondent and perused the record.

Admittedly, the petitioner revisionist had earlier filed a suit for declaration and possession by way of specific performance of contract with defendant Pawan Kumar and another. In the said suit the plaintiff-petitioner was totally silent to the terms of the contract especially the fact of having received Rs.10 lacs through one Mukesh Singla for which he executed a receipt. It is subsequently the application under Order 6 Rule 17 read with Section 151 CPC was moved for amendment of the plaint which stood declined. Apparently, in the entire pleadings which were filed on 12.12.2014 there is totally no mention of having received this amount through Mukesh Singla and rather a plea has been raised that the defendants have failed to perform their part of the contract

keeping the Court in dark about this receipt of money, for which, he had executed a receipt. When at the trial this plea was raised by the opposite side and that is how the application has come about is of reflective that it was not a bonafide intention. Moreover, the applicant has come about belatedly after lapse of period of limitation in filling the suit in question and, therefore, is clearly after the period of limitation of the suit in which the relief has been sought. Moreover, in written reply the defendants revisionist have taken a specific plea before the learned trial Court that no such amount was ever received or receipt executed in respect of the same and, therefore, cannot at this belated stage be allowed to reiterate the stand and take a u-turn under the garb of mere inadvertence and revisionist cannot take undue advantage of his acts of wrong. The Court below has rightly dismissed the application which needs to be upheld.

It is subsequently thereto the defendants had moved application for review of the orders dated 30.07.2018 on the

grounds that since the trial of the suit has not commenced and only issues have been framed and, thus, earlier the orders declaring the amendment prayer needs to be reviewed.

The contentions of both the sides in the light of what is available on the records suggest that issues were framed in the case on 21.03.2016 and more than three opportunities were availed of by the plaintiff to lead evidence. Moreover, mere mention of the fact in the order that the trial has not commenced is at the most to be pure inadvertent error and does not affect the rights of the revisionist. It needs to be reiterated here that the powers of review under Order 47 are very limited in their scope and can only be exercised where a party has been aggrieved and feels that in spite of due diligence the Court failed to appreciate the conduct of a party which is to their prejudice and could not be exercised with due diligence. In the present case, there is specific plea raised by the revisionist in his written statement denying the receipt of money and execution of the receipt and, therefore, cannot be termed to be a bonafide act of

the parties. The order on the review does not suffer from any illegality and needs to be upheld.

In the light of the foregoing discussion, both the orders under assail in this revision application are well reasoned and judicially sustainable and needs to be upheld and there being no merit in the revision, the same stands dismissed.

March 03, 2020

(FATEH DEEP SINGH)

amit rana

JUDGE

Whether reasoned/speaking	:	Yes/No
Whether reportable	:	Yes/No