

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 385 of 2021

Date of Decision: 24.02.2021

Resham Kaur

... Petitioner(s)

Versus

Mohinder Lal

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Sarju Puri, Advocate
for the petitioner(s).

Anil Kshetarpal, J.

The defendant/petitioner has filed this revision petition under Article 227 of the Constitution of India, assailing the correctness of the order, passed by the learned Civil Judge (Junior Division), Garhshankar, dismissing the application for permission to amend the written statement filed after the commencement of the trial. In the present case, the plaintiff has already concluded his evidence.

The plaintiff has filed a suit on 18.04.2015 for specific performance of the contract/agreement to sell dated 11.06.2013. The defendant contested the suit by filing a detailed written statement through her counsel. Apart from the other things, the defendant pleaded that her signatures on the agreement to sell are forged as she has not put any such signatures. She further pleaded that the agreement to sell is the result of fraud, fabrication and misrepresentation.

After the completion of the pleadings, the Court framed the

plaintiff has already concluded his evidence. The plaintiff also led his evidence to prove that the defendant had signed and thumb-marked the agreement to sell.

When the case was fixed for the evidence of the defendant, an application for permission to amend the written statement was filed, which was opposed by the plaintiff. The trial Court, after noticing that the defendant is now attempting to change her stand, dismissed the application on the ground that the trial of the case is at an advanced stage of defendant's evidence and in view of the proviso to Order VI Rule 17 CPC, no application for amendment can be allowed after the trial has commenced.

Heard learned counsel for the petitioner.

Learned counsel for the petitioner submits that the amendment sought is explanatory in nature. He submits that the plea that the agreement to sell being a result of fraud, fabrication and misrepresentation has already been taken in the written statement. He further submits that the defendant is only supplying the particulars of the fraud which were not included in the original written statement. He further submits that the amendment of the written statement, if allowed, would not prejudice the plaintiff.

This Court has considered the submissions of the learned counsel and with his able assistance, perused the paper book.

From the reading of para 4 of the preliminary objection in the written statement, it is apparent that the defendant took a positive stand that she has not signed the alleged agreement to sell. She has further re-emphasized that the alleged signatures on the agreement to sell were not put by her. In such circumstances, now the defendant wants to make a tactical

shift in the original stand.

As regards the argument of learned counsel that the amendment sought is only explanatory, it may be noted that as per the provisions of Order VI Rule 2 CPC, the pleading has to be based upon the facts in concise manner. Hence, the amendment of pleadings for the purpose of explanation cannot be allowed.

As regards the second argument, it may be noted that the petitioner has already filed a detailed written statement through her counsel. Therefore, the amendment sought is clearly the result of an after-thought.

As regards the next argument of the learned counsel that the plaintiff will not suffer any prejudice, it may be noted that the plaintiff has already led his evidence. Therefore, the plaintiff is likely to suffer prejudice.

Still further, the application for amendment has been filed after a period of five years from the date of institution of the suit. Hence, no ground to interfere is made out. Hence, the revision petition is dismissed.

(Anil Kshetarpal)
Judge

February 24, 2021
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No