

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

CR-248-2022

Date of Decision: 07.02.2022

M/S TREHAN CONSTRUCTION

...Petitioner

Versus

UNION OF INDIA AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Dheeraj Mahajan, Advocate
for the petitioner.

Mr. Anil Chawla, Central Government counsel for UOI.

(Presence marked through Video Conference)

ARUN MONGA, J. (ORAL)

Present revision petition is against the impugned order dated 30.11.2021 (Annexure P-7) passed by learned Civil Judge (Junior Division), Amritsar, whereby, the application for amendment of plaint filed by the plaintiff/petitioner was dismissed.

2. Learned counsel for the petitioner submits that the plaintiff/petitioner is a contractor and had executed a work for the department but the payment has not been released to him. Hence, the petitioner filed a suit for recovery along with the relief of declaration. Upon notice, the defendant/respondents appeared before the trial Court and filed their written statement, whereby they denied the claim of the petitioner. However, during pendency of the suit, the petitioner filed an application under Order 11 Rules 12 and 14 of the CPC seeking production of documents from the defendants. Learned counsel further submits that during cross-examination, the defendants put various documents to the petitioner.

On basis thereof, the petitioner moved an application seeking amendment of the plaint to correct the figures as the same were required to be rectified but the said application was declined by the learned trial Court.

3. On advance service, learned counsel for the respondents-Union of India, joins proceedings and opposes the petition, *inter alia* on the ground that since the petitioner had, at the relevant time, chosen not to file his replication and therefore, at this stage, he cannot be allowed to amend his plaint on the ground that the new information i.e. documents produced by the defendants in course of the trial has revealed that he has made wrong calculations in the plaint.

4. Heard.

5. I am unable to agree with the arguments canvassed by learned counsel for the respondents-Union of India. Record reveals that it was not in fact by virtue of written statement alone but also due to the specific application filed by the plaintiff seeking direction to the defendants to produce the documents which were admittedly in possession of the defendants. It was on production of those documents, the plaintiff came to know qua the calculations which were merely technical in nature and therefore, sought amendment in the pleadings on the basis thereof. The fact remains that the amount of recovery based on the calculations is not being changed in the prayer and it is only the recital qua the same based on the different calculations that is being sought to be amended/changed by way of application. No doubt, earlier an application under Section 151 CPC was filed. However, the same shall not preclude the petitioner to seek his appropriate remedy under Order 6 Rule 17 CPC as long as he satisfies the conditions contained in the provision thereof seeking amendment i.e. he did

not have the knowledge of details of calculations qua the pleadings sought to be amended at the time of filing of the plaint. Admittedly, as already noted, the documents were produced only on an application filed by the plaintiff and thereafter, the amendment is now being sought.

6. In the premise, the revision petition is allowed. The petitioner be given one opportunity to place on record his amended plaint, subject to payment of costs of Rs.10,000/-, which shall be utilized to plant trees worth Rs.10,000/- of deciduous and perennial in nature, of any variety viz. Neem, Amla, Gulmohar and/or Alstonia, in the neighbourhood of the property, which is under dispute. Plantation shall be carried out under the supervision of the District Agriculture Officer. Proof of plantation to be furnished by the petitioner in the Registry of this Court, along with supporting letter from the Agriculture department, to be placed before this Court upon receipt thereof. In case, the petitioner defaults in doing so, liberty is granted to the Registry to place the matter before this Court to report non-compliance thereof.

(ARUN MONGA)
JUDGE

07.02.2022
gurpreet

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