

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

CR-3060-2022

Date of decision : 03.08.2022

Gurbax Kaur @ Surjit Kaur

...Petitioner

Vs.

Malkiat Singh and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. M.S.Atwal, Advocate for the petitioner.

MANOJ BAJAJ, J.

Petitioner (defendant No.1) has filed this revision petition to challenge the order dated 04.03.2020 (Annexure P-1) passed by Civil Judge (Junior Division), Hoshiarpur, whereby his application under Order VI Rule 17 read with Section 151 CPC for amendment of written statement was dismissed.

Brief facts of the case are that the plaintiffs, namely, Malkiat Singh, his wife Rupinder Kaur filed suit for recovery of Rs.4 lacs as damages and compensation for undergoing harassment, humiliation and defamation at the hands of plaintiffs for their malicious prosecution. As per pleadings, the parties are related and defendant No.1 is aunt of plaintiff No.1, who has been residing abroad for last more than three decades and in her absence, the property was looked after and maintained by plaintiff No.1 being nephew and attorney up to 2005-2006. Later on, as a result of dispute, their relations got strained resulting in litigation, and in order to harass the plaintiffs, defendant No.1 along with defendant Nos.2 and 3 filed a criminal complaint dated 13.03.2008 before the Deputy Superintendent of Police, Garhshankar, thereby levelling false allegations of forcible dis-possession and encroachment. Apart

from this, she also alleged that the plaintiffs forged receipt in order to misappropriate Rs.2 lacs from her and the plaintiffs were implicated in FIR No.01 dated 23.04.2009 registered under Sections 471, 420, 447, 448 and 506 IPC at NRI Police Station, Hoshiarpur. Finally, the plaintiffs were acquitted vide order dated 22.01.2014 and on this cause of action, they filed the suit.

The suit is being contested by the defendants, who filed joint written statement and admitted relationship between the parties as well as the fact that plaintiff No.1 was looking after the property of defendant No.1 and later on defendant No.1 had revoked the said attorney. While denying the other averments in the plaint, it was prayed that the suit be dismissed.

During the pendency of the suit, defendant No.1 filed an application seeking amendment of the written statement in order to withdraw the admission relating to execution of power of attorney in favour of plaintiff No.1 as well as the fact relating to the revocation of the said attorney. The application was contested by the plaintiffs by filing the reply and after considering the rival stand of the parties, Civil Judge (Junior Division), Hoshiarpur vide order dated 04.03.2020 dismissed the application.

Learned counsel for the petitioner has argued that in case, amendment as prayed in the application is allowed, no prejudice would be caused to the plaintiffs as the defendant is yet to lead its evidence and the plaintiffs would be getting the opportunity to rebut the same. He submits that the nature of amendment is minor and would not alter the nature of the suit, therefore, Civil Judge (Junior Division), Hoshiarpur without appreciating the facts and circumstances of the case, dismissed the application. He prays that the impugned order be set aside and application for amendment of written

statement be allowed.

After hearing learned counsel and considering the nature of the suit, this Court is of the opinion that the amendment sought to be incorporated in the written statement does not appear to be just and necessary, particularly when the relations between the parties are not disputed. During the course of hearing, it is not disputed by learned counsel that when the application was moved, the plaintiffs' evidence had already concluded. Thus, in case the application is allowed, it would certainly displace the plaintiffs, who have not adduced any evidence relating to the power of attorney and revocation, because the said fact stood admitted by the defendants.

Further, a perusal of the impugned order shows that the Court has carefully examined the facts and circumstances of the case while dismissing the application, and the impugned order does not suffer from any illegality or impropriety.

Resultantly, petition fails and is dismissed.

(MANOJ BAJAJ)
JUDGE

03.08.2022
vanita

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No