

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

(110)

CR-5936-2022 (O&M)  
Date of Decision:-15.12.2022.

Malkiat Singh

.....Petitioner

Versus

Municipal Council, Sangrur, through its Executive Officer and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE ALOK JAIN**

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Present: Mr. Amarbir Singh Salar, Advocate for the petitioner.

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**ALOK JAIN, J. (Oral)**

Counsel for the petitioner submits that *vide* impugned order dated 28.10.2022 (Annexure P-7), the application for clarification of the order dated 19.07.2019 (Annexure P-4), has been dismissed. He further submits that an error erupted in the order dated 19.07.2019 (Annexure P-4) in the last line, wherein it was stated that the amended plaint is already on record, whereas the amended plaint inserting Para 1-A and Para 10 was not on record. He submits that an inadvertent error on behalf of the petitioner-plaintiff occurred due to oversight and the learned Court below wrongly presumed the amended plaint to be on record, which in fact had been filed in pursuance to the earlier amendment allowed *vide* order dated 23.05.2017 (Annexure P-1) and not the amendment allowed *vide* order dated 19.07.2019 (Annexure P-4).

It is seen in the order dated 19.07.2019 (Annexure P-4) that the

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said amendment had been allowed, as the matter was at initial stage and the trial had not begun moreso, the issues were not framed. However, subsequent to the order dated 28.10.2022 (Annexure P-7), that is when the application was dismissed, the learned Court below has framed the issues and fixed the matter for plaintiff's evidence.

Counsel for the petitioner prays that he be permitted to file the amended plaint in terms of the order dated 19.07.2019 (Annexure P-6) only to the extent of inserting Para 1-A and Para 10, as detailed in the application dated 25.07.2018 (Annexure P-3). He further submits that the amended plaint inserting Para 1-A and Para 10 is annexed as Annexure P-4 and the trial Court be directed to take the same on record thereafter, calling the respondents for filing the amended written statement. Counsel further submits that no prejudice shall be caused to the respondents and they can be compensated with cost.

At this stage, issuance of notice of motion shall only procrastinate the proceedings before the trial Court, especially in the light of the fact that the amendment had been allowed but only the amended plaint could not be filed.

Accordingly, taking a lenient view, the present petition is allowed and the order dated 28.10.2022 (Annexure P-7) is set aside. The petitioner-plaintiff shall file the amended plaint on the date fixed i.e. 17.12.2022 and the trial Court shall grant opportunity to the defendants to file their written statement to the amended plaint and add or delete any issue, if so required as per the pleadings of the parties. In case the plaintiff fails to file the amended plaint on 17.12.2022, the right to file the same

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shall stand forfeited and the trial Court shall proceed in accordance with law. However, this liberty is granted, shall be subject to cost of ₹ 25,000/- to be paid to all the respondents equally.

In case the respondents have any grievance, they may approach this Court for redressal of the same.

Accordingly, petition stands disposed of.

Pending miscellaneous applications shall also stand disposed of.

**(ALOK JAIN)**  
**JUDGE**

**December 15, 2022.**

Sandeep

Whether speaking/reasoned:- Yes/No

Whether Reportable:- Yes/No