

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**266****CR No.359 of 2019****Date of Decision : 24.05.2023**

Estate Officer, Bathinda Development Authority

....Petitioner

VERSUS

Sakshi and Another

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Ashish Grover, Advocate for the petitioner.

Mr. Rajan Bansal, Advocate for respondent No.1.

ALKA SARIN, J. (Oral)

1. The present revision petition under Article 227 of the Constitution of India has been filed challenging the order dated 26.10.2018 whereby the application for amendment of the plaint filed by plaintiff-respondent No.1 herein under Order VI Rule 17 of the Code of Civil Procedure, 1908 has been allowed.

2. Learned counsel for the defendant No.1-petitioner would contend that the written statement in the present case was filed on 27.01.2017 and the amendment application was filed on 02.01.2018. It is further the contention that by way of amendment in the heading of the plaint and the prayer clause, the nature of the suit has been changed from one for mandatory injunction to that of a suit for recovery.

3. *Per contra* learned counsel for the plaintiff-respondent No.1 has contended that no prejudice would be caused to the defendant No.1-petitioner inasmuch as the plaintiff-respondent No.1 would not lead any further evidence in this regard. Learned counsel for plaintiff-respondent

No.1 also states that whatever additional court fee needs to be deposited, the plaintiff-respondent No.1 would make good the deficiency in the court fee.

4. Heard.

5. In the present case the only prayer made is for amendment in the heading of the plaint, prayer clause as well as in para 11 of the plaint. Learned counsel for plaintiff-respondent No.1 has already made a statement that the amendment would not amount to *de novo* trial as she does not intend to lead any additional evidence in this regard.

6. In view of the above and in order to do complete justice between the parties, the present revision petition is disposed off with a direction that the defendant No.1-petitioner would be permitted to file the written statement to the amended plaint. The Trial Court shall also frame an issue regarding the alternate relief now claimed in the amended plaint. The plaintiff-respondent No.1 would remain bound by the statement made by her counsel that no new/fresh evidence would be led by her.

7. Disposed off in the above terms. Pending applications, if any, also stand disposed off.

(ALKA SARIN)
JUDGE

24.05.2023
jk

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO