

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-4035 of 2017 (O&M)
Date of Order: 23.08.2023

M/s Ossagho Corporation and another

.Petitioners

Versus

M/s Raj Industries

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vishal Garg, Advocate
for the petitioners.

Mr. Yogesh Goel, Advocate,
Mr. Vishal Dhiman, Advocate
Mr. Harsh Jain, Advocate
for the respondent.

ANIL KSHETARPAL, J

1. While rejecting the defendants' request for permission to amend the written statement as well as the counter claim in order to correct the typographical errors, the trial court has committed a manifest error.

2. In a suit filed by the respondent M/s Raj Industries, the petitioner was impleaded as M/s Ossagho Corporation as the partnership firm. The suit is for recovery of Rs.14,32,967/-.

3. The defendants filed the written statement as well as the counter claim. During the pendency of the suit, an application under Order VI Rule 17 CPC for permission to amend the counter claim was filed claiming that the defendant No.1 is, in fact, a proprietorship and not partnership. In substance, the following amendments were sought:-

*“1. M/s Ossagho Corporation, having its office at SCO-6,
First Floor, Novelty Plaza, Bhai Bala Chowk, Opposite
Park Plaza Hotel, Ludhiana through its CEO Sh.
Jatinder Kumar Kansal.*

2. Jatinder Kumar Kansal CEO of M/s Ossagho Corporation, having its office at SCO-6, First Floor, Novelty Plaza, Bhai Bala Chowk, Opposite Park Plaza Hotel, Ludhiana.”

1. The counter claimant no.1 is a Proprietorship having its office at 6, at SCO-6, First Floor, Novelty Plaza, Bhai Bala Chowk, Opposite Park Plaza Hotel, Ludhiana and the counter claimant no.2 is the CEO of the counter claimant no.1. The counter claimant firm M/s Ossagho Corporation is carrying on the business of software and hardware of the computers field and are into the specialization of ERP Software implementation etc. The counter claimants provide services pertaining to the initiation of the said ERP Software so desired and demanded by the companies and the counter claimants fulfill the job so handled by them. The counter claimants/defendants have been very good reputation in the society and in the filed of their work.”

4. The Court has dismissed the application on the ground that the party cannot be allowed to take back admissions made by him in the pleadings and it is not permissible to take all together different and new pleas altogether.

5. This Bench has heard the learned counsels representing the parties at length and with their able assistance perused the paper book.

6. It is evident that the petitioner shall not be withdrawing any admission of fact made in the substantive claims. It is only the status of the firm which is sought to be changed. In the beginning, it was impleaded as a partnership firm, whereas now the counter claimant is sought to be filed as a proprietorship concern. This amendment in absence of malafide is only a

formality. There is no allegation that such amendment is not filed with the good intention.

7. Hence, the impugned order dated 26.04.2017, passed by the Civil Judge (Junior Division), Ludhiana, is set aside and the amendment is allowed.

8. Disposed of accordingly.

9. All the pending miscellaneous applications, if any, are also disposed of.

August 23, 2023
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned :YES/NO
Whether reportable :YES/NO