

CR-5273-2018

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. 2023:PHHC:068824

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-5273-2018

Date of Decision :11.05.2023

**Darshan Lal Chadha and
another**

....Petitioners

Versus

Tarsem Lal Chadha and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Santosh Sharma, Advocate and
Mr. Sahil Mehndiratta, Advocate and
Mr. Ashutosh Dhankar, Advocate for the petitioners.

Mr. Himanshu Bansal, Advocate for the respondent No.1.

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Harsimran Singh Sethi, J. (Oral)

In the present revision petition, challenge is to order dated 31.07.2018 (Annexure P/8) passed by the Civil Judge (Junior Division), Kurukshetra by which, application filed by petitioners-defendants for amendment of written statement has been declined.

Certain facts needs to be mentioned for the correct appreciation of the issue in hand.

In para-3 of the suit filed by the respondents-plaintiffs seeking mandatory injunction with consequential relief of permanent injunction, it was mentioned that there was a compromise arrived at between the parties on 11.11.2014 according to which, certain rights accrued to both the parties including the respondents-plaintiffs, which objections are not being fulfilled

by the petitioners-defendants.

In reply to the suit, initially in para-3 of the suit it was submitted that agreement dated 11.11.2014 is not binding upon the parties but the said stand taken was contrary to the factual position as conveyed to the learned counsel, which could not be reflected in the written statement. Learned counsel for the petitioners-defendants submits that they are ready to accept the contention that there was a valid executed agreement dated 11.11.2014 between the parties amendment of the written statement was sought by filing application which application has been rejected by the trial Court vide impugned order dated 31.7.2018 (Annexure P/8), which order is under challenge in the present revision petition.

Learned counsel for the petitioners-defendants argues that amendment of written statement should be allowed so as to do justice to the parties even if, contradictory stand is taken. Learned counsel for the petitioners-defendants further submits that in the present case, amendment is only to the effect that agreement dated 11.11.2014 being relied upon by the respondents-plaintiffs is being admitted by way of an amendment hence, respondents-plaintiffs should not be aggrieved against the said amendment sought rather the same is in consonance with the averments mentioned in para-3 of the suit.

Learned counsel for the respondents-plaintiffs has not been able to point out any prejudice which will be caused in case the said amendment is allowed.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Keeping in view the fact that amendment sought is only to accept the averment made in para-3 of the plaint, learned counsel for the respondent-plaintiff has not been able to point out any prejudice which will be caused to the respondent-plaintiff in case the amendment sought is allowed. Rather, by allowing the amendment, the averments made in the para-3 of the plaint is being accepted, hence it is clear that no prejudice will be caused to the respondents-plaintiffs in case the said amendment is allowed to be made.

Keeping in view the facts and circumstances noticed hereinbefore, present revision petition is allowed. Order dated 31.07.2018 (Annexure P/8) passed by the Civil Judge (Junior Division), Kurukshetra is set aside and the amendment sought to be carried out in the written statement is allowed. Trial Court is directed to proceed with the suit in accordance with law after taking amended written statement on record and after giving due opportunity to the respondents-plaintiffs for defence in case any such opportunity is sought.

May 11, 2023

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(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No