

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

222

CR-7718-2016

Date of Decision :20.03.2023

Prem Singh**..Petitioner****Versus****State of Haryana and others****...Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Rakesh Kumar Sharma, Advocate for the petitioner.

Ms. Vibha Tewari, AAG, Haryana.

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Harsimran Singh Sethi, J. (Oral)

In the present revision petition, the challenge is to order dated 02.09.2016 (Annexure P/6) passed by the trial Court by which, amendment of the written statement has been allowed on the ground that certain facts which are necessary for adjudication of the controversy have been stated in the amended written statement.

Learned counsel for the petitioner argues that by the time, the application seeking amendment of the written statement was moved, the evidence of the plaintiff had already started and as the trial had already begun, amendment of the written statement should not have been allowed keeping in view the judgment of the Hon'ble Supreme Court in **Civil Appeal No.7251-2008** titled as **Vidyabai and others vs. Padmalatha and another** decided on 12.12.2008.

Learned counsel for the respondents submits that suit filed by the petitioner/plaintiff was by placing reliance upon an exparte decree dated

13.09.2012 against which decree, an application under Order 9, Rule 13 of the CPC has already been filed, which fact could not be mentioned in the written statement and amendment was only sought to place on record the said fact. Learned counsel for the respondents further submits that the said amendment in the written statement did not change the stand of the defendants qua the suit filed. Only purpose of amendment is to place on record an additional fact for the just and proper adjudication of the issue in hand hence, allowing the said amendment in the written statement by the impugned order is perfectly valid and in accordance with law.

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

In the present case, material fact, which was just and proper for adjudication of the dispute between the parties, has been allowed to be brought on record by way of an amendment of the written statement in the impugned order. The only fact sought to be brought on record was that an exparte decree dated 13.09.2012 against which, an application under Order 9, Rule 13 of the CPC has already been filed by the State which was pending consideration before the competent Court of law. Even the trial Court while passing impugned order had opined that the said fact is necessary to adjudicate all the issues between the parties.

That being so, it cannot be said that impugned order is passed without jurisdiction or needs any interference by this Court in the present revision petition. In para-14 of the judgment in **Vidyabai (supra)**, being relied by the learned counsel for the petitioner, it has been held that wherever qua the amendment in pleadings, the Court decides that amendment is necessary to decide the actual dispute between the parties,

amendment needs to be allowed, which clearly covers the case qua the respondents and the order impugned.

Keeping in view the above, no interference is called for by this Court and the present revision petition is accordingly dismissed.

March 20, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No