

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

206

2023:PHHC:089171

CR-1700-2020

Date of decision: 17.07.2023

M/S RAM CHAND BHAGAT RAM

..Petitioner

Versus

**BHARAT PETROLEUM CORPORATION LIMITED
AND ORS**

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Tribhawan Singla, Advocate
for the petitioner.

Mr. Raman Sharma, Advocate
for respondent No.1 and 2.

Mr. Amit Dhawan, Advocate
for respondent No.3.

ANIL KSHETARPAL, J(Oral)

1. The petitioner herein is the plaintiff. His suit for the grant of decree of permanent injunction restraining the defendants either from discontinuing the supply of petrol and diesel to the retail outlet or from suspending or terminating or revoking the dealership, along with a decree of mandatory injunction directing the defendants to carry out the reconstitution of the dealership, is pending before the trial Court.

2. During the pendency of the suit, an application for the permission to amend the plaint to seek a decree of declaration to the effect that the dealership of the plaintiff firm running under the name and style of M/s Ram Chand Bhagat Ram is to be reconstituted by defendant No.1 and 2 with the existing partners namely Sh. Rajinder Kumar, Smt. Krishna Kumari and Sh. Narender Mohan. The aforesaid application has been dismissed by the trial Court while observing that the nature of the suit would undergo

and a *de novo* trial shall be necessary. Challenging the correctness of the aforesaid order, the present revision petition has been filed.

3. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

4. The learned counsel representing the petitioner submits that only the prayer clause of the plaint is sought to be amended and in substance, the suit remains as it is. He further submits that initially the suit was filed for the grant of decree of mandatory injunction, which is now sought to be amended to seek the relief of declaration. He further submits that the plaintiff does not wish to adduce any further evidence.

5. On the other hand, the learned counsel representing the Bharat Petroleum Corporation submits that the case is at the fag end and, therefore, the amendment should not be allowed. Sh. Amit Dhawan, learned counsel representing respondent No.3 submits that the plaintiff is in fact changing the nature of the suit itself.

6. This Court has considered the submission of the learned counsel representing the parties.

7. From the reading of unamended plaint, it is evident that the plaintiff has already sought relief of mandatory injunction directing the defendants to carry out reconstitution of the dealership of the plaintiff firm running under the name and style of M/s Ram Chand Bhagat Ram as partnership firm having three partners namely Sh. Rajinder Kumar, Smt. Krishna Kumari and Sh. Narinder Mohan. The only amendment sought is to seek the decree of declaration. Such an amendment would not result in changing the nature of the suit. Only an additional relief has been sought.

The plaintiff has already stated that he does not wish to lead any further evidence. In such circumstances, a *de novo* trial shall not be necessary. The trial Court after giving the formal opportunity to the defendants to file an amended written statement, if any, can call upon the defendants to lead further evidence, if prayed for and then proceed to decide the suit.

8. The Supreme Court in a recent judgment in *Life Insurance Corporation of India Vs. Sanjeev Builders Private Limited and another, 2022 SCC Online SC 1128* has held that formal amendments of pleadings should be liberally allowed by the Court and while allowing such amendments, strict rules of procedure as laid down by Code of Civil Procedure, 1908, are not applicable.

9. In view of the aforesaid, the order under challenge is set aside.

10. The plaintiff is permitted to amend the plaint. If amended plaint has not been filed, let the same be filed within a period of one week, from today, positively. Thereafter, the trial Court will proceed with the matter.

11. Disposed of accordingly.

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

July 17th, 2023

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(ANIL KSHETARPAL)
JUDGE

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