

CR-2689-2019

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2023:PHHC:074656

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

252

CR-2689-2019

Date of Decision :22.05.2023

Mahender Singh and another

...Petitioners

Versus

Ram Kumar @ Ram Kanwar and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: None for the petitioners.

Mr. R.S. Malik, Advocate for respondent No.1

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Harsimran Singh Sethi, J. (Oral)

Present revision petition has been filed for setting aside the order dated 26.03.2019 (Annexure-P/5) passed by the Civil Judge, (Junior Division), Sonapat by which, an application filed by the petitioner-plaintiffs for amendment of the plaint has been dismissed.

Though, no one is appearing on behalf of the petitioners but in the revision petition, it has been mentioned that after the filing of the civil suit, parties have entered into an agreement on 08.06.2017, which factum needed to be brought on record for the just and proper decision of the claim raised in the suit. For the amendment of plaint, an application was filed by the petitioners-plaintiffs, which application has been dismissed by the trial Court vide impugned order dated 26.03.2019 (Annexure-P/5).

It may be noticed that while issuing notice of motion, this Court

directed the trial Court to adjourn the case beyond the date fixed by this Court and for the last four years, the suit is being adjourned without there being any adjudication.

Learned counsel for the respondent No.1 submits that by the time application for amendment was filed, evidence of the plaintiffs have already initiated hence, keeping in view the fact that the trial has already begun, application filed by the petitioners-plaintiffs for amendment of the plaint was rightly declined by the Court below.

I have gone through the pleadings and heard the learned counsel for the respondents No.1

It has already come on record that there was an oral compromise effected between the parties on 08.06.2017, which was reduced in writing on 09.06.2017, which incident took place after the filing of the civil suit and the factum of said compromise was sought to be brought on record by way of an amendment in the plaint. Once, the fact which is material and has occurred during the pendency of the suit, petitioners-plaintiffs were well within their right to file an application seeking amendment of the plaint so as to bring the said fact on record. Merely that the trial has begun will not extinguish the right of the claimants in case the same is necessary for the adjudication of the lis between the parties.

Further, learned counsel for the respondent No.1 has not been able to point out any prejudice, which is being caused to the respondents as the compromise sought to be brought on record was in writing and whether the same was acted upon or not will depend upon the evidence, which will come on record during the course of trial.

Keeping in view the facts noticed hereinbefore, the present revision petition is allowed. Order dated 26.03.2019 (Annexure-P/5) passed by the Civil Judge, (Junior Division), Sonapat is set aside. Application filed by the petitioners-plaintiffs seeking amendment of the plaint is allowed. Trial Court is requested to proceed with the suit in accordance with law by giving due opportunity to the respondents to file their response to the amendment. As the period of four years have already elapsed since when the present revision petition is pending before this Court, trial Court is requested to expedite the trial as far as possible.

May 22, 2023

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(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No