

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

(259)

CR No. 3727 of 2019

Date of Decision : 03.05.2023

Swaran Singh**...Petitioner****Versus****Kale Shah****...Respondent*****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI***

Present: Mr. Ankit Kharbanda, Advocate for the petitioner.

Mr. Akhilesh Vyas, Advocate for the respondent.

Harsimran Singh Sethi J. (Oral)

1. In the present civil revision petition, the challenge is to the order dated 13.05.2019 (Annexure P-3) by which the application filed by the petitioner-plaintiff under Order 6 Rule 17 CPC for correcting the name of the defendant has been rejected by the trial court.

2. Learned counsel for the petitioner-plaintiff submits that the suit was filed against Sh. Kale Shah son of Darshan Singh by giving the address of Shop No. 582 inside Dana Mandi, Amritsar. In the reply to the suit, the sole defendant appeared and submitted that in fact his name is Ravinder Kumar Puri son of Sh. Darshan Lal but the same has wrongly been mentioned as Kale Shah son of Darshan Singh. In order to correct the same, an application was filed for correcting the name of the defendant by way of amendment of the civil suit, which application has been rejected by the impugned order on the ground that the petitioner-plaintiff should have been

careful enough to mention the correct name of the defendant.

3. Learned counsel for the petitioner-plaintiff argues that once the sole defendant is appearing and he in his written statement mentioned that his correct name is Ravinder Kumar Puri then in order to remove any ambiguity the application filed under Order 6 Rule 17 CPC should have been allowed as the same was only formal amendment as no further pleading was required to be changed and no further evidence was required to be brought on record.

4. Learned counsel for the respondent, on the other hand, submits that once in the written statement, the actual name was mentioned, the petitioner-plaintiff should have been vigilant enough to carry out the said amendment immediately, whereas, he has taken a lot of time to do the same and the court, in its wisdom, has rightly rejected the plea for amendment.

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

6. In the present case, the amendment sought is only a formal correction of the name of the sole defendant. The defendant is already appearing and it is only keeping in view the objection raised by the defendant in his written statement with regard to his name, the application for amendment for correcting the name of the defendant was filed. No prejudice would have been caused to anyone, had the application been allowed, especially when, the petitioner had undertaken not to amend any pleading leading to recording of any further evidence. Merely that the amendment was being requested after certain period of filing the suit or filing the written statement, the same cannot be a ground for rejection of the

said application, especially when, no prejudice is shown to have been caused to the respondent, has been pointed out to this Court.

7. Keeping in view the above, the impugned order dated 13.05.2019 (Annexure P-3) is set-aside. The application seeking amendment so as to correct the name of the defendant is allowed. It is made clear that the said amendment is allowed as the petitioner has undertaken that no pleading or further evidence is to be brought on record keeping in view the said amendment.

8. Civil revision petition is allowed in above terms.

May 03, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No