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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No. 3782 of 2023

Date of Decision:13.07.2023

M/s Alpine Educational Society

... Petitioner

Versus

PSPCL through its Assistant Executive Engineer.

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Rajinder Sharma Advocate
for the petitioner.

.....

SANJIV BERRY, J.

Arguments heard.

2. It is *inter alia* contended by learned counsel for the petitioner that the learned Civil Judge (Jr. Division), Amritsar while passing the impugned order dated 08.05.2023 (Annexure P-4) dismissing the application under order 6 Rule 17 read with Section 151 CPC dated 29.03.2023 (Annexure P-2) has committed error in law, as the said amendments were only of formal nature, i.e. the title as well as prayer clause without pleading any evidence and he prayed for acceptance of revision petition by setting aside the impugned order.

3. After considering the submissions made by learned counsel for

the petitioner in the light of the documents placed on record, it transpires that the petitioner had filed suit for permanent injunction restraining the defendant PSPCL authorities from disconnecting the electricity connection of the petitioner and also seeking restraint order from recovering amount of demand notices/memos from the plaintiff. The suit was contested by the defendant wherein issues were framed, the plaintiff as well as the defendant had adduced their respective evidence.

4. The case was fixed for rebuttal evidence, when the instant application for amendment of plaint has been moved by the plaintiff-petitioner on 29.03.2023, whereby the plaintiff has sought the amendment seeking declaration to the fact that the demand raised by the defendant from plaintiff through memos dated 08-06-2017 in respect of the electrical connection are “wrong, illegal, null and void and liable to be set aside”.

5. The application was contested by the defendant-respondent and the trial Court after hearing learned counsel for the parties proceeded to pass the impugned order dated 08.05.2023, thereby dismissing the application.

6. I have perused the impugned order with the assistance of learned counsel for the petitioner and find the same to have been passed in accordance with law. In crux, the plaintiff-petitioner while filing the suit for permanent injunction on 23.06.2017 had sought relief only qua injunction against the respondent from disconnecting its electricity supply and from recovery of amount of ₹30,170/- and ₹31,047/- from the plaintiff in respect of the said electricity connections. On the appearance of the defendant and filing of written statements the issues were framed in the case on 27.07.2019. The plaintiff-petitioner adduced evidence and closed it on

07.09.2022 and thereafter the defendant also closed its evidence. It is on 29.03.2023 when the suit was fixed for rebuttal evidence, that the plaintiff-petitioner had moved application under Order 6 Rule 17 CPC for amendment thereby intending to amend the relief claimed, to that of declaration to the effect that the demand of ₹30,170/- and ₹31,047/- raised by defendant from the plaintiff through memos dated 08.06.2017 in respect of its electricity connections are wrong, illegal, *mala fide*, *null and void* and hence liable to be set aside.

7. In this manner, the plaintiff intends to seek amendment in the suit for permanent injunction thereby also claiming relief for declaration to the effect of declaring demand notices/memos dated 08.06.2017 to be illegal, null and void. Although, as per the learned counsel for the petitioner such amendments are to be formal in nature not requiring any fresh evidence but the fact which are and to be taken into consideration is that as to whether the proposed amendment sought by the plaintiff squarely falls in the fore corners of the legal provisions.

8. Admittedly, the period of limitation for seeking relief of declaration is 3 years from the date when the cause of action had arisen to the plaintiff. In the present case, the plaintiff-petitioner by way of proposed amendments sought vide application dated 29.03.2023 intends to seek declaration qua the demand memos dated 08.06.2017 being illegal, null and void and hence liable to be set aside. The demand notices/memos dated 08.06.2017 could have been challenged by the petitioner by filing the suit for declaration within a period of 3 years from the date of receipt thereof.

After lapse of 6 years when the instant relief of declaration has hopelessly

been time barred and even the petitioner has not been able to convince that despite due diligence he could not seek the proposed amendments at earlier stage, the filing of the application under Order 6 Rule 17 CPC by the petitioner is hopelessly time barred, relief cannot be sought in a suit by filing application for amendment of the suit after the lapse of the period of limitation, be it a formal or informal amendment as the case may be.

9. Thus, in the light of the above discussion, it is observed that the learned Civil Judge (Jr. Division), Amritsar has correctly and judiciously passed the impugned order dismissing the application of the petitioner for amendment of the suit and I do not find any infirmity in the impugned order so as to called for any interference by this Court.

10. Resultantly, finding no merit in the petition the same is hereby dismissed.

(SANJIV BERRY)
JUDGE

13.07.2023

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i)	Whether speaking/reasoned?	Yes/No
ii)	Whether reportable?	Yes/No