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

CR-4367-2023 (O&M)

Date of Decision:- 08.11.2023

CHARAN SINGH SAINI

...Petitioner

Vs.

CHANDER MOHAN AND ANR

...Respondents

CORAM:-HON'BLE MS. JUSTICE AMARJOT BHATTI

Present: Mr. Shashi Kumar Rattan, Advocate for the petitioner.
Mr. Rabesh Sobti, Advocate for the respondent No.1.

AMARJOT BHATTI, J. (Oral)**CM-20686-CII-2023**

This is an application filed by the respondent No.1 to place on record written statement.

For the reasons mentioned therein, the application is allowed and the accompanied written statement is taken on record.

CR-4367-2023

1. The petitioner has filed civil revision petition under Article 227 of the Constitution of India for setting aside the impugned order dated 26.05.2023 (Annexure P-13) and order dated 20.08.2022 (Annexure P-7) passed by Civil judge (Sr. Divn), SAS Nagar (Mohali) whereby the application filed by the petitioner under Order 1 Rule 10 CPC for impleading Ms. Jaspreet Kaur, Technical Assistant as one of the defendant has been erroneously dismissed.

2. Learned counsel for the petitioner argued that Charan Singh Saini filed suit for damages for Rs.2 lacs approximately against Chander Mohan, Superintendant, Establishment Branch, Punjab State Warehousing Corporation and Gurpreet Inder Singh Dhillon, Chief Manager Establishment, Punjab State Warehousing Corporation which is pending for disposal. Copy of plaint is Annexure P-2 and copy of written statement filed by defendant No.1 is Annexure P-3 and now the case is fixed for plaintiff's evidence. The statement of Gaurav, Technical Assistant, Punjab State Warehousing Corporation PW2 and statement of Jaspreet Kaur, Technical Assistant PW4 are Annexures P-4 and P-8 respectively. After recording of statement of Jaspreet Kaur, he filed application under Order 1 Rule 10 CPC for impleading her as one of the defendant for fair adjudication of the case. The application is Annexure P-5. Reply given to the said application is Annexure P-6. However, the said application was declined by Civil Judge (Sr. Divn.), SAS Nagar, Mohali by passing impugned order dated 20.08.2022 (Annexure P-7). Learned counsel for the petitioner referred to the statement of Jaspreet Kaur PW-4, Annexure P-8, where she admitted that she had prepared the noting dated 19.09.2016 in her official capacity volunteer with the guidance of her senior. Therefore, she is also equally responsible for defaming him and lowering his reputation. Under these circumstances, she is required to be arrayed as defendant No.3. The application filed by the petitioner under Order 1 Rule 10 CPC was wrongly declined. Therefore, the impugned order dated 20.08.2022, Annexure P-7 and impugned order dated 26.05.2023, Annexure P-13, may kindly be set aside and Jaspreet Kaur be arrayed as defendant No.3 being a necessary party.

3. Learned counsel for respondent No.1 has appeared. It is argued that the case is at stage when the application was filed under Order 1 Rule 10 CPC for impleading Jaspreet Kaur, Technical Assistant, Office of Punjab State Warehousing Corporation as one of the defendant. There is no truth in the allegation leveled by the petitioner in the plaint. The plaintiff failed to lead any evidence on record that there was any spoken or written representation or the same was published with the intention to harm the reputation of the petitioner. Any act done in the good faith before lawful authority does not amount to defamation. It is pointed out that the case of defendants as well as Jaspreet Kaur is covered under exception of Sub-Section VIII of Section 499 of IPC. In-fact the petitioner wants to linger on with the litigation. Therefore, he has filed a frivolous application which was rightly declined by the trial Court. The revision preferred by the petitioner is without merits and the same deserves dismissal.

4. I have considered the arguments advanced before me and I have gone through the records annexed with the petition. As per record, Charan Singh Saini the present petitioner filed suit for damages for Rs.2 lacs against the defendants for damaging and lowering his reputation by making baseless noting dated 19.09.2016 and letter dated 03.11.2016 written by the defendnats. The record shows that firstly plaintiff filed application under Order 1 Rule 10 CPC for impleading Jaspreet Kaur, Technical Assistant as one of the defendant. The said application dated 31.01.2020 was declined vide order dated 20.08.2022 which is Annexure P-7. Thereafter, another application dated 13.02.2023 was filed under Order 1 Rule 10 CPC for impleading Jaspreet Kaur as one of the defendant. It was also declined by passing impugned order dated

26.05.2023 which is Annexure P-13. It is a matter of record that the plaintiff, during the course of evidence examined Jaspreet Kaur as one of the witness. Her statement as PW4 is Annexure P-8 where she admitted the noting dated 19.09.2016 was prepared by her in her official capacity with the guidance of her senior. On the basis of this statement, now the petitioner filed application for impleading her as one of the defendant. It cannot be ignored that Jaspreet Kaur PW4 was Technical Assistant who was supposed to prepare notings as per the record, in her official capacity which are put up before the Senior Authority and ultimately order is passed by the Superior. In the case in hand, Chander Mohan Superintendent, Establishment Branch, Punjab State Warehousing Corporation and Gurpreet Inder Singh Dhillon, Chief Manager Establishment were arrayed as defendants and they are facing trial. Considering these facts, Jaspreet Kaur being Technical Assistant is not a necessary party for the final adjudication of the case, the first application filed by the petitioner was declined on merits vide order dated 20.08.2022 which is Annexure P-7. Later, on the same ground second application has been filed on 13.02.2023 which is also declined vide order dated 26.05.2023 (Annexure P-13) by further holding that against the previous order no revision has been preferred which attained finality and by filing second application, the trial Court cannot review its own order.

In the light of aforesaid facts, I do not find any illegality or irregularity in the orders passed by the trial Court while disposing of both the applications under Order 1 Rule 10 CPC. Resultantly, finding no merits in the civil revision, the same is accordingly declined.

Pending application (s), if any, also stands disposed of.

08.11.2023

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(AMARJOT BHATTI)
JUDGE

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