

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

**Civil Revision No. 4471 of 2023(O&M)
Date of Decision: 22.08.2023**

Rajender Singh

...Petitioner

Versus

Sukant & Ors.

...Respondents

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. Himanshu Sharma, Advocate
For the petitioner.**

KARAMJIT SINGH, J.

CM-14901-CII of 2023

This is an application filed by the petitioner for placing on record Annexures P-9 to P-12.

For the reasons mentioned in the application, the same is allowed and accompanied annexures are taken on record subject to all just exceptions.

Civil Revision No. 4471 of 2023

1. The present petition has been filed by petitioner/ defendant No.1 against the order dated 11.07.2023 (Annexure P-1) passed by the Court of Civil Judge (Jr.Divn.), Rewari whereby an application filed by respondent No.1/ plaintiff for amendment of the plaint in order to plead that Sukant is nickname of respondent No.1 as has been pleaded in the head note and body of the original plaint, whereas actual name of respondent No.1 is Shakuntala @ Sukant daughter of Late Harnarain, has been allowed.

2. The counsel for the petitioner while assailing the impugned order has, *inter alia*, contended that the proposed amendment is not permissible at this stage when the trial has commenced. It is further contended that the proposed amendment will introduce a totally different and new case and thus change the nature of the suit also. The counsel for the petitioner further submits that it cannot be said that proposed amendment is being sought to rectify typographical error. The errors of ignorance cannot be termed as typographical errors and in this context the counsel for the petitioner has placed reliance upon decision of Allahabad High Court in **Board of Directors, Allahabad Agricultural Institute Vs. State of U.P. & Ors. 2014 (2) Civil Court Cases 346**. The counsel for the petitioner has further contended that amendment of the plaint could not be allowed merely because it being clarificatory in nature or removing any ambiguity, after trial has commenced. In this regard the counsel for the petitioner has referred to decision of Patna High Court in **Shiv Kumari Kuar Vs. Anil Bhagat 2023 (3) Civil Court Cases 77**. The counsel for the petitioner has further contended that in the instant case the proposed amendment is not necessary for the purpose of determining the real question in controversy between the parties. While concluding his arguments, the counsel for the petitioner has submitted that the application for amendment of the plaint was filed at the belated stage when the trial was at its fag end and has been filed just to delay the proceedings and thus deserves to be disallowed.

3. I have considered the submissions made by counsel for the petitioner.

4. The original suit was filed by Sukant daughter of Harnarain seeking decree for declaration and permanent injunction against the

defendants. During trial respondent No.1/ plaintiff filed an application to amend the plaint in order to take plea that Sukant is her nickname and while her actual name is Shakuntala @ Sukant daughter of Late Harnarain. In the written statement, whose copy is available on record, petitioner has not denied the fact that Sukant is not daughter of Late Harnarain. In the given circumstances, even if the application for amendment of the plaint has been filed at belated stage, it cannot be said that the proposed amendment is going to change the cause of action or nature of suit or will amount to withdrawal of any admission on the part of respondent No.1 or that through the proposed amendment respondent No.1 is trying to incorporate time barred claim in the suit. Rather the proposed amendment is required for effective and proper adjudication of the controversy between the parties and is not going to prejudice in any manner the defence set up by the petitioner.

5. There is no dispute with regard to the case law referred by the counsel for the petitioner but the same is not applicable to case in hand.

6. For the foregoing reasons, it is held that there is no illegality or perversity in the impugned order and consequently the present petition is hereby dismissed being devoid of merits.

22.08.2023

Jiten

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No