

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

CR-6604-2023 (O&M)
Date of Decision:-**14.11.2023**

PARVEEN SINGH AND ANOTHER

... Petitioner(s)

Versus

RANDHIR SINGH MEHLA

... Respondent(s)

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CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

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Present:- Mr. Manoj Kumar Taya, Advocate
for the petitioners.

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KARAMJIT SINGH, J. (Oral)

CM-20851-CII-2023

1. The applicants/petitioners are permitted to place on record (Annexure P-6) i.e. affidavit of non-applicant/petitioner No.2-Amardeep Chauhan, subject to all just exceptions.
2. The application stands disposed of accordingly.

CR-6604-2023

1. This civil revision petition has been filed by the petitioners/defendants for setting aside order dated 12.10.2023 (Annexure P-5) whereby the application (Annexure P-3) filed by the petitioners under Order 6 Rule 17 CPC for amendment of written statement has been dismissed.

2. The brief case of the case are that respondent/plaintiff has filed suit for recovery of ₹20 lacs along with interest against the petitioners on the ground respondent/plaintiff gave financial help of ₹30 lacs to the petitioners in year 2020, but thereafter the petitioners failed to repay the said borrowed amount along with interest at the agreed rate.
3. The suit has been contested by the petitioners, who denied that they owe the disputed amount to the respondent.
4. On the pleadings of the parties, the learned trial Court framed various issues and then respondent adduced his evidence and then the case was adjourned to for evidence of petitioners at which stage the petitioners filed an application for amendment of written statement. The same was contested by the respondent and the learned trial Court dismissed the said application vide impugned order dated 12.10.2023 (Annexure P-5).
5. The counsel for the petitioners *inter alia* contends that by way of amendment, the petitioners intends to plead in their written statement that petitioners gave ₹1 lac to son of the respondent on 4.12.2018 and deposited ₹73,7000/- and ₹50,000/- on 2.5.2019 in the account of the respondent. The counsel for the petitioners further submits that aforesaid payments were made to the respondent/his son through bank transactions (NEFT). That the pleading of fact of aforesaid transactions, which are prior to the disputed loan transactions is clarificatory and if allowed the same is not going to prejudice the respondent in any manner. So prayer is made that the application filed

under Order 6 Rule 17 CPC be allowed and petitioners be permitted to amend their written statement to that extent.

6. I have considered the submissions made by counsel for the petitioners.
7. The petitioners have filed an application seeking amendment of the written statement to plead that prior to the loan transactions in dispute, petitioners deposited ₹1 lac through NEFT in the account of Gaurav Mehla son of respondent on 4.12.2018, and deposited ₹73,700/- and ₹50,000/- through NEFT in account of respondent on 2.5.2019. Petitioner No.2, who is son of petitioner No.1 has submitted his affidavit (Annexure P-6) wherein, he has clarified that aforesaid transactions, which were done through NEFT in the year 2018-2019 are not relating to loan transactions in dispute, which are pertaining to year 2020; and further clarified that the said transactions through NEFT are not covering the alleged disputed loan transactions. It being so, no new case is being introduced by the petitioners by way of proposed amendment and the same is not going to prejudice the respondent in any manner and further it appears that the proposed amendment is only in the shape of clarification to show that previously also money transactions were going on between the parties even in 2018-2019. The proposed amendment would aid the trial Court in rendering a more satisfactory decision with regard to subject matter in dispute and is not going to divest the opposite party of an advantage, which it had secured as a result of an admission, if any, made by the other party or otherwise and further the proposed amendment is not going to cause any injustice to the respondent.

8. For the forgoing reasons, the petitioners are able to make out case for amendment of the written statement. Accordingly, the present petition is allowed and the impugned order is set aside and the application filed by the petitioners under Order 6 Rule 17 CPC seeking amendment of the written statement is allowed, subject to cost of ₹10,000/- which is to be paid by the petitioners to the other party, on the next date fixed in the trial Court and the petitioners are permitted to file the amended written statement, as prayed for.
9. Keeping in view the circumstances mentioned above, this petition is being disposed of without issuing any notice to the opposite party. However, liberty is granted to the respondent that if they feel dissatisfied with this order, he may move an application to recall the same.

14.11.2023
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No