

2024:PHHC:018337

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CR No.539 of 2024 (O&M)

Date of Decision: 09.02.2024

Jatinder Pal Singh

...Petitioner

Versus

The State of Punjab and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Argued by:- Petitioner in person.

MEENAKSHI I. MEHTA, J.

By way of the instant revision-petition, the petitioner-plaintiff (here-in-after to be referred as 'the plaintiff') has laid challenge to the order (Annexure P-16) passed by learned Civil Judge (Junior Division), SAS Nagar (for short 'the trial Court') on 04.11.2023 in ***Civil Suit No.465 of 2020*** titled as '***Jatinder Pal Singh versus State of Punjab and another***', whereby the application (Annexure P-11), as moved by him under Order VI Rule 17 CPC for seeking amendment in the plaint, has been dismissed.

2. Shorn and short of unnecessary details, the facts, emerging from the perusal of the file and culminating in the filing of the present revision-petition, are that the petitioner-plaintiff filed the above-referred Civil Suit for seeking a decree for declaration to the effect that the order passed by the respondents-defendants (here-in-after to be referred as 'the defendants') on 15.02.2018, for denying his extension in the service, was illegal, arbitrary and discriminatory and he also claimed the damages for the consequential loss as

suffered by him and further prayed for the issuance of mandatory injunction, by directing the defendants to grant him all the service benefits as well as compensation for the period, for which he was denied the extension of his service and to pay the damages, along-with interest thereon. The defendants filed written-statement and the trial Court framed the issues on 18.03.2021. Thereafter, on 17.03.2022, the plaintiff stepped into the witness-box as his own witness and tendered his affidavit (Annexure P-4) with some documents. Meanwhile, he moved the application Annexure P-3 under Order XI CPC and application Annexure P-5 for summoning the record and another application Annexure P-6 under Order XII CPC and as mentioned in the impugned order (Annexure P-16), the defendants also moved an application under Order 7 Rule 11 CPC for seeking rejection of the plaint on the ground of non-payment/non-affixation of proper court-fee thereon. On 09.02.2023, the plaintiff moved the afore-said application, Annexure P-11, for seeking amendment in the plaint by way of considering the affidavit and the documents, as tendered by him in his evidence, as a part of the pleadings therein and by adding the words “this is for assessing the jurisdiction of the Hon’ble Court only” in Para No.24 and by replacing the word ‘damages’ in Paras No.1 & 3 in the prayer clause with words ‘consequential relief’ and also by substituting Para No.32 in the same with the following Para :-

“That a court fee of Rs 50/- is affixed for the relief of declaration and the court fee of Rs 50/- (Rs fifty only) for the relief of mandatory injunction and the value of the suit for court fee is assessed as Rs 1000/- (Rs one thousand only) because the consequential relief for which the plaintiff will be eligible as per law,

- A. has not been assessed by this Hon'ble court,
B. the case falls under the category 'C' of Section 7(iv) of the court fee Act.

accordingly, as per the law laid down in the case of case of 'State of Punjab Vs Dev Brat Sharma' by the Hon'ble APEX COURT where in the reference of the law laid down by the CONSTITUTIONAL BENCH in the case of S. RM.AR.RM. Ramanathan Chettiar by the Apex Court has been given, that *ultimately it would be the actual relief granted which would determine the court fee*, the plaintiff undertakes to make good the deficient court fee as per the actual relief that would be granted by this Hon'ble court, as such a court fee of Rs 50/- (Rs fifty only) is affixed at this stage. A court fee of a sum of Rs 50/- (Rs fifty only) is affixed for future interest as well because the consequential relief has not been assessed by this Hon'ble court, the plaintiff undertakes to make good a deficient court fee as per the actual relief that would be granted by this Hon'ble court as *ultimately it would be the actual relief granted which would determine the court fee*".

and vide the impugned order, the trial Court has dismissed his above-mentioned application (Annexure P-11).

3. I have heard the petitioner-plaintiff (in person) in this revision-petition and have also perused the file carefully.

4. The petitioner-plaintiff has contended that his affidavit and the documents annexed therewith, as tendered by him in his evidence, are quite necessary to be read as a part of his plaint as the defendants had not supplied the afore-said documents to him earlier and moreover, he has filed the Suit for seeking the relief of declaration with the consequential benefits and the above-

proposed amendments in the plaint are essential for the proper decision of the Suit but vide the impugned order, the trial Court has wrongly dismissed the afore-said application, moved by him for this purpose and therefore, this order is not legally sustainable and hence, it deserves to be set-aside. To buttress his contentions, he has placed reliance upon the judgment as rendered by Hon'ble Supreme Court in **Life Insurance Corporation of India vs. Sanjeev Builders Private Limited & Anr, 2022 Live Law (SC) 729.**

5. However, the above-raised contentions are devoid of any merit because as mentioned earlier, the issues had been framed in the afore-said Suit long back on 18.03.2021 and then, on 17.03.2022, the plaintiff had tendered his affidavit, along-with several documents, in his evidence while appearing as his own witness whereas he had moved the application, Annexure P-11, on 09.02.2023. Meaning thereby that the trial had already commenced in the said Civil Suit before the filing of the above-said application. The verdict rendered by the Apex Court in **Life Insurance Corporation of India (supra)**, is of no avail to the plaintiff because though, it has been observed therein that “*all the amendments are to be allowed which are necessary for determining the real question in controversy provided these do not cause injustice or prejudice to the other side and this is mandatory, as is apparent from the use of the word “shall”, in the latter part of Order VI Rule 17 CPC*” but in the instant case, throughout in his afore-referred application, the plaintiff has not whispered even a single word to explain as to how the proposed amendments would be necessary for determining the real question in controversy between the parties.

6. Rather, as regards the prayer of the plaintiff for considering his affidavit and the documents tagged therewith, as a part of his pleadings/plaint,

it is well settled that the evidence need not be pleaded in the pleadings. So far as his prayer for replacing word 'damages' with words 'consequential relief' in Paras No.1 and 3 of the prayer clause and for the proposed amendments in Paras No.24 and 32 qua the valuation of the Suit for the purpose of court-fee, is concerned, the same would not be permissible in the circumstances when concededly, the application moved by the defendants under Order 7 Rule 11 CPC for seeking rejection of the plaint on the score of non-affixation of the proper court-fee on the same, is pending adjudication before the trial Court and rather, the above-mentioned proposed amendments seem to have been sought in view of the afore-said application, as filed by the defendants.

7. As a sequel to the fore-going discussion, it follows that the impugned order Annexure P-16 does not suffer from any illegality, infirmity, irregularity or perversity so as to warrant any interference by this Court. Resultantly, the revision-petition in hand, being *sans* any merit, stands dismissed.

09.02.2024
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(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable: Yes