

2024:PHHC:088772



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

CR-1252-2024(O&M)

Date of Decision: July 16, 2024

Sheela

...Petitioner

Versus

Anjana

...Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Ajay Ghangas, Advocate
for the petitioner.

ARCHANA PURI, J.

Challenge in the present revision petition is to the order dated 03.10.2023 (Annexure P-5) passed by learned trial Court, whereby, an application filed by the respondent-plaintiff under Order 6 Rule 17 CPC, for amendment of the plaint was allowed.

The facts, as culled from the paperbook are that initially, respondent-plaintiff had filed a suit against the petitioner-defendant for seeking specific performance of an agreement to sell dated 15.03.2018. As per the version of the respondent-plaintiff, an amount of Rs.4,50,000/- was paid and this fact was acknowledged by husband of the petitioner-defendant. However, husband of petitioner-defendant expired in the month of January 2019. During the pendency of the suit, when it was at the stage of recording



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of the plaintiff's evidence, an application for seeking amendment of the plaint for making addition of the alternative prayer for recovery of the earnest money, as such, was filed.

However, in reply, the petitioner-defendant had denied about execution of the agreement to sell. In fact, payment of Rs.4,50,000/- was also denied. It is further asserted that husband of the defendant had never received any amount as sale consideration. As such, a prayer was made for dismissal of the application.

After hearing learned counsel for the parties and considering the case law, learned trial Court had allowed the application for amendment of the plaint.

Feeling aggrieved by the order passed by learned trial Court, on the amendment application, the petitioner-defendant has filed the present revision petition.

Keeping in view the proposed amendment sought at the instance of the respondent-plaintiff, the issuance of notice to the respondent is dispensed with.

Learned counsel for the petitioner heard.

Before proceeding further, it is essential to make reference to the decision rendered by the Hon'ble Supreme Court in ***Life Insurance Corporation of India vs. Sanjeev Builders Private Limited and another, 2023(1) RCR (Civil) 851***, wherein, the law relating to the amendment of pleadings was summed up in eleven points and specifically, few of the relevant points, for allowing the amendment, are as follows:-



- All amendments are to be allowed, which are necessary for determining the real question in controversy provided, it does not cause injustice or prejudice to the other side.

Furthermore, a prayer for amendment is to be allowed:-

- if the amendment is required for effective and proper adjudication of the controversy between the parties;
- where the amendment would enable the court to pin-pointedly consider the dispute and would aid in rendering a more satisfactory decision, the prayer for amendment should be allowed;
- Amendment may be justifiably allowed, where it is intended to rectify the absence of material particulars in the plaint;

It was also observed that where the amendment sought is only with respect to the relief in the plaint and is predicated on facts which are already pleaded in the plaint, ordinarily the amendment is required to be allowed.

In the light of the aforesaid dictum, the amendments, which are essential for the proper adjudication of the controversy, between the parties, can be allowed, at any stage, unless and until, it causes prejudice to either side.

It has been rightly observed by learned trial Court that the proposed amendment shall not be causing any prejudice to the rights of the petitioner-defendant. It is also not going to change the nature of the suit. It is only alternative relief, vis-a-vis, recovery of the alleged earnest money. Though, now it is submitted by learned counsel for the petitioner that the agreement, as such, was never executed and no amount was paid as earnest money, but however, these are the pleas, which can only be adjudicated by



learned trial Court, at appropriate stage, after the evidence is adduced by the rival parties.

Learned trial Court, keeping in view the proposed amendment, relating only to the pleading of alternative relief for recovery of earnest money, as such, has appropriately allowed the application.

Thus, the impugned order warrants no interference. Hence, the revision petition sans merit and is hereby dismissed.

July 16, 2024
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No