

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

141

CR-915-2024 (O&M)

Date of decision:14.03.2024

M/s Goyal Automotive Pvt. Ltd.

... Petitioner

Vs.

Kamaljit Singh

... Respondent

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR.

Present: Mr. Sachin Kalia, Advocate for the petitioner.

...

SUKHVINDER KAUR, J.

1. The instant revision petition has been filed against the order dated 08.01.2024 passed by the Civil Judge (Jr. Division), Ludhiana (Annexure P-1), vide which the application filed by the petitioner/defendant under Order 6 Rule 17 CPC for amendment of the written statement has been dismissed.

2. The brief facts relevant for the purpose of adjudication of the present revision petition are that the respondent/plaintiff filed a suit for grant of decree of mandatory injunction for directing the petitioner/defendant to hand over the original registration certificate of car make Hyundai i10 Grand Magna bearing Chasis No.MALA851 DLDM044468 L, Engine No. D3FADM050107, Key No.P-1591, to the plaintiff/respondent and with a further prayer for grant of permanent injunction for restraining the defendant, its attorneys, agents, representatives and employees etc. from taking possession of the above said car from the plaintiff illegally and forcibly.

3. After issuing of notice, defendant/petitioner put in appearance and filed written statement. Thereafter issues were framed as per pleadings of the parties. Then plaintiff led his evidence and thereafter the case was fixed for adducing of evidence by the defendant. Then an application under Order 6 Rule 17 CPC read with Section 151 CPC was filed by the petitioner/defendant seeking amendment of the written statement to the effect that the plaintiff has no authority to file the present case as he has not been authorized by the other co-owners of the said vehicle. So, suit of the plaintiff is liable to be dismissed. Reply to the said application was filed by the respondent/plaintiff and the said application was dismissed by the trial Court vide the impugned order dated 08.01.2024. Hence, aggrieved of the said order, the present revision petition has been filed before this Court by the petitioner/defendant.

4. Learned counsel for the petitioner has contended that during the cross-examination of the respondent/plaintiff as PW2, certain facts came to the light, which are necessary to be mentioned and added in the written statement filed by the petitioner/defendant and which are also necessary for adjudication of the suit. He has further contended that the said facts which were concealed by the plaintiff came to the light during the cross-examination and it transpired that plaintiff has no *locus standi* or authority to file the present suit, so the necessary amendment is required to be made in the written statement.

5. I have heard learned counsel for the petitioner at length and have perused the record.

6. The amendment in the written statement is being sought by the

petitioner/defendant on the ground that new facts came into the picture from cross-examination of Kamaljit Singh, which are necessary to be brought on record for the proper adjudication of the present case. A perusal of the written statement that had already been filed, reveals that a specific plea had been taken therein with regard to the maintainability of the suit and cause of action of the plaintiff. The trial Court has rightly observed that the proposed amendment is not necessary as the said facts are already covered in the objections earlier taken by the defendant. It has also been rightly pointed out that the proposed amendment is not relating to any subsequent events. Even the issue regarding the maintainability of the suit had already been framed and the onus to prove the said issue is upon the defendant.

7. In the light of the above, the impugned order does not suffer from any illegality or perversity and does not call for any interference.

8. The revision petition sans merits stands dismissed.

(SUKHVINDER KAUR)
JUDGE

14.03.2024

harjeet

1. Whether speaking/reasoned? Yes/No

2. Whether reportable? Yes/No