

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-1007-2023 (O&M)
Date of Decision: 23.01.2024.

DALWINDER SINGH
VS.
DHANVEER SINGH

PETITIONER

RESPONDENT

CORAM:HON’BLE MR. JUSTICE GURBIR SINGH

Present : Mr. Gaurav Singla, Advocate for the petitioner.

Ms. Shubreet Kaur, Advocate for the respondent.

GURBIR SINGH, J.

CM-17677-CII-2023

This is an application under Section 151 CPC for grant of permission to place on record application dated 26.04.2013 as Annexure R-1 and order dated 06.03.2014 as Annexure R-2.

Heard.

For the reasons mentioned in the application, the same is allowed. Annexure R-1 and R-2 are taken on record.

Main case

1. Challenge in this petition is to set aside order dated 01.02.2023 (Annexure P-1) passed by the Court of learned Additional Civil Judge (Sr. Division) Sunam District Sangrur (Annexure P-1), whereby an application dated 19.01.2023 (Annexure P-4) seeking amendment of plaint has been dismissed.
2. The brief facts as culled out from the petition are that petitioner/plaintiff had filed a suit for specific performance and joint possession on the basis of agreement of sale and for permanent injunction.

The parties have already led their evidence. The petitioner/plaintiff has

moved an application under Order 6 Rule 17 CPC for amendment of the title of the suit whereby the petitioner/plaintiff wants to add alternative relief of recovery of amount of earnest money along with interest in the head note of the plaint as well as in the prayer clause. The proposed amendment is as under:-

“A)In the head note A) of plaint after the words, all rights of ownership, possession, cultivation, water, bore, water course, Pahi etc. be done in favour of plaintiff, the following words are to be added:

"In the alternative, suit for recovery of earnest money of Rs. 11,50,000/- (Rs. Eleven Lakh and fifth thousand) alongwith interest at the rate of 18% from the date of payment of earnest money i.e. 8.7.2011 till filing of suit and future interest till recovery of whole amount"

B) That similarly in prayer clause in 6th line after the word, "Connection etc. in favour of plaintiff, this para is to be written as under:

"and in the alternative decree for the refund of earnest money of Rs. 11,50,000/- (Rs. Eleven Lakh and fifty thousand) alongwith interest at the rate of 18% from the date of payment of earnest money i.e. 8.7.2011 till filing of suit sand future interest till recovery of whole amount" may be passed in favour of plaintiff against the defendant.”

3. Learned counsel for the petitioner/plaintiff has submitted that he does not want to lead any evidence. If amendment is allowed, the nature of the suit would not change and no prejudice would be caused to the other side.

4. Learned counsel for the respondent has argued that the trial of the case is complete and is fixed for arguments. The petitioner/plaintiff is not entitled to amend the pleadings at this stage.

5. I have heard the submissions of the learned counsel for the parties.

6. Recently, in case *Life Insurance Corporation of India Vs.*

Sanjeev Builders Private Limited and Anr: Law Finder Doc ID:#2029338, it

is held by the Hon'ble Supreme Court that it is always open to the Court to allow an amendment if it is of the view that allowing of an amendment shall really sub-serve the ultimate cause of justice and avoid further litigation. It is held that in dealing with a prayer for amendment of pleadings, the court should avoid a hyper technical approach and is ordinarily required to be liberal especially where the opposite party can be compensated by the costs. It is further held that where the amendment merely sought to introduce an additional or a new approach without introducing a time barred cause of action, the amendment is liable to be allowed even after expiry of limitation. Since the proposed amendment whereby alternative relief is sought on the same cause of action and the petitioner/plaintiff does not want to lead any evidence, after the amendment so, I am of the view that the other party can be compensated with the costs, so order passed by the learned trial Court is hereby set aside.

7. The application for amendment moved by the petitioner/plaintiff is, hereby allowed, subject to payment of cost of Rs.10,000/- to be paid to the respondent/defendant. After the completion of the pleadings, the learned trial Court may frame any additional issue, if required. Petitioner/plaintiff is not entitled to lead a further evidence but opportunity be given to the respondent/defendant to lead evidence if any.

8. Petition stands disposed of.

(GURBIR SINGH)
JUDGE

23.01.2024

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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No