



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

**CM-11632-CII-2024
CR-1382-2024 (O&M)
Decided on: 02.09.2024**

ZORAWAR SINGH

...Petitioner

Versus

SUKHDEV SINGH

...Respondent

CORAM: HON'BLE MRS JUSTICE RITU TAGORE

Present: Mr. Arvind Kashyap, Advocate
for the petitioner.

Mr. J. S. Grewal, Advocate
for the respondent.

RITU TAGORE, J.

1. Mr. J. S. Grewal, Advocate appears on behalf of respondent, and files Power of Attorney, which is taken on record, subject to just exceptions.
2. This revision petition is directed against the order dated 02.09.2023 (Annexure P-1), passed by learned Civil Judge (Junior Division), Khamanon, District Fatehgarh Sahib in CS No.139 of 2019 titled 'Zorawar Singh Vs. Sukhdev Singh', whereby an application for amendment of written statement filed by the respondent/defendant under Order VI Rule 17 read with Section 151 of Code of Civil Procedure, 1908 (hereinafter referred to as 'CPC'), has been allowed.



3. Learned counsel submits that in a recovery suit (Annexure P-2) filed by the petitioner/plaintiff against the respondent /defendant, based on pronote and receipt dated 01.09.2016, the respondent/defendant, in his written statement (Annexure P-3) completely denied the execution of the pronote and receipt, and alleged that these documents as false and fabricated and not binding upon him.

4. Learned counsel submits that when the case was fixed for the cross-examination of the petitioner/plaintiff and his witnesses, the respondent/defendant moved an application under Order VI Rule 17 read with Section 151 CPC to amend the written statement, seeking to incorporate wholly inconsistent and different pleadings from those originally taken in the written statement. This application was resisted by the petitioner/plaintiff in his reply (Annexure P-7). Learned counsel submits that learned trial Court, without properly appreciating the facts allowed the application in arbitrary manner. It is submitted by the learned counsel that a defendant by way of amendment in the written statement cannot be permitted to take contrary stand and cannot be allowed to set up a new case altogether. The learned counsel submits that the order is contrary to the law and should be set aside.

5. Learned counsel for the respondent/defendant supported the order stating that same had been validly passed. The learned counsel submits that the amendment in the written statement as detailed in the application (Annexure P-6), was necessary for the proper adjudication of the case.

6. The learned counsel submits that the amendment of the plaint and written statement stand on different footings. The defendant is permitted



to take additional/new grounds of defence or even introduce inconsistent pleas in the written statement while adding or altering any new cause of action, which may not be permissible while amending the plaint. Learned counsel submits that the respondent explained the reasons for the amendment of the written statement and the learned trial Court after appreciating the pleaded facts and the law applicable for the amendment of the written statement, rightly allowed the same. Stating that there is no merit in the petition, prayed for its dismissal.

7. I have heard learned counsel for the parties and gone through the case file with their able assistance.

8. The learned trial Court while referring to the observations made by Hon'ble the Supreme Court in the case of '**Usha Balashaheb Swami & others Vs. Kiran Appaso Swami & others**', 2007(2) RCR (Civil) 830: 2007 (1) RCR (Rent) 457: (2007) 5 SCC 602, allowed the amendment. At this juncture, it is apposite to reproduce the observation made by Hon'ble the Supreme Court which reads as follows:-

"19...a prayer for amendment of the plaint and a prayer for amendment of the written statement stand on different footings. The general principle that amendment of pleadings cannot be allowed so as to alter materially or substitute cause of action or the nature of claim applies to amendments to plaint. It has no counterpart in the principles relating to amendment of the written statement. Therefore, addition of a new ground of defence or substituting or altering a defence or taking inconsistent pleas in the written statement would not be objectionable while adding, altering or substituting a new cause of action in the plaint may be objectionable.



20. Such being the settled law, we must hold that in the case of amendment of a written statement, the courts are more liberal in allowing an amendment than that of a plaint as a question of prejudice would be far less in the former than in the latter case....”

9. Keeping in view the above said observations made by Hon’ble the Supreme Court of India and the proposed amendment sought by the respondent/defendant in the written statement, the learned trial Court committed no illegality in allowing the application, thereby permitted the parties to place on record all the relevant facts for the proper and complete adjudication of the matter before the Court. Furthermore, no prejudice as such, would be caused to the petitioner/plaintiff as he would be at liberty to file rejoinder to the proposed amendment as made by the respondent/defendant and lead his evidence accordingly.

10. As a sequel to the foregoing discussion, it is held that the learned trial Court has rightly exercised the jurisdiction that was vested in it and the order does not suffer from any illegality, irregularity, infirmity or perversity so as to warrant any intervention by this Court.

11. Revision petition stands dismissed, accordingly.

12. Pending applications, if any, also stands disposed of accordingly.

(RITU TAGORE)
JUDGE

02.09.2024
Rimpal

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No