

139 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-2856-2023 (O&M)
Date of decision: 02.05.2024

Ms. G.R.Trading Co. Opposite Damdami Takshal Ajnala and another
....Petitioners

Versus

Ms. Mander Cattle Feed and another
..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Navinderjit Singh Dandiwal,Advocate for the
petitioners

Mr.Akun Sheemar, Advocate for respondent no. 1 and 2

ANIL KSHETARPAL, J (Oral)

1. The petitioners before this Court have filed a suit for recovery of Rs.17,25,152/- alongwith interest at the rate of 12% per annum from the due date till the date of realization of the decretal amount. They filed an application for permission to amend the plaint to the following effect:-

“4. That inadvertently or due to typographical mistakes, 9 entries of transactions regarding payment made by the plaintiff to the defendants through NEFT Via Bank have not been mentioned in para No.5 of the plaint. As such, the plaintiff wants to add the following transactions after the serial No.107 as follows:-

108	-do-	02.07.2016	1,00,000/-
109	-do-	01.08.2016	1,30,000/-
110	-do-	26.09.2016	1,52,000/-
111	-do-	03.10.2016	1,15,000/-
112	-do-	06.10.2016	60,000/-
113	-do-	07.10.2016	58,300/-

114	-do-	08.05.2017	1,50,000/-
115	-do-	03.04.2018	80,000/-
116	-do-	23.08.2018	4000/-

5. That inadvertently or due to typographical mistake, dates have wrongly been typed in para No.5 serial No.95 as “13.05.2018” instead of “03.5.2018” and in serial No.99 as “26.06.2018” instead of 28.06.2018, as such, plaintiff wants to correct the said errors/dates. After amending the said entries and after adding new entries, the total amount of entry No.5 will be changed and as such, the plaintiff wants to amend the total amount of Rs.1,22,80,913/- in place of amount of Rs.1,18,97,913/- after adding the above said new transactions. Similarly, the plaintiff also wants to amend Grand total of para no.5 of Rs.1,53,16,913/- in place of total amount of Rs.1,49,37,913/- after adding the above said new transactions.

6. That inadvertently or due to typographical mistake, date has wrongly been typed in para No.6 serial No.5 as “17.08.2014” instead of “16.08.2014” and in the same para, amount of s.75000/- has wrongly been typed in serial No.8 instead of Rs.”65000”. Similarly, amount of Rs.72000/- has wrongly been typed in serial No.12 instead of Rs.2,00,000/-. Similarly, in serial no.20, amount has wrongly been typed “97,000” and as such, plaintiff wants to amend the said amount Rs.1,30,000/-. Similarly, in serial No.18, date and amount has wrongly been typed “23.02.2015” amount “1,00,000” and as such, plaintiff wants to amend the serial no.18 as “24.02.2015’ amount of Rs.1,50,000/-. Similarly, in serial no.19, amount has wrongly been typed “1,23,000” instead of Rs.1,90,000/- and as such, plaintiff wants to amend the amount of Rs.1,90,000/-.

Similarly, in serial No.26, date and amount has wrongly been typed “06.06.2015” amount “1,00,500”, and as such, plaintiff wants to amend the serial No.26 as “08.06.2015’ amount of Rs.1,30,000/-. Similarly, in serial No.31, amount has wrongly been typed “60,000” instead of “86,000/- and as such, plaintiff wants to amend the serial No.31.

After the above said new transactions, plaintiff wants to amend the total amount of Rs.31,97,500/- in place of Rs.3101036/-”

2. The trial court dismissed the application on the ground that the plaintiff’s four witnesses have been examined and as per the proviso

to Order VI Rule 17 of the Code of Civil Procedure, 1908 (hereinafter referred to as 'CPC'), no application for amendment shall be allowed after the trial has commenced. It has been held that such provision is mandatory.

3. The correctness of the aforesaid order has been challenged in this revision petition.

4. Heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

5. Learned counsel representing the petitioners submits that all the errors are due to typographical mistakes and the amendment sought in the plaint is formal in nature. He submits that the plaintiff wants that proper facts are brought on record.

6. Per contra, the learned counsel representing the respondent submits that the trial has already commenced, hence, no amendment can be allowed.

7. This Court has considered the submissions made by the learned counsel representing the parties.

8. There are various kinds of amendments which can be made in the pleadings. Certain amendments are of formal nature. There are certain amendments which are arising from typographical or printing errors. The other category is of substantive amendments. A formal or errors arising from typographical mistakes cannot be clubbed with in the category of substantive amendments. Section 152 read with Section 153 CPC permits the parties to amend the errors arising from typographical

mistake, even after the decision of the main case. The trial court has erred in overlooking this fact.

9. Reliance in this regard can be placed on **Life Insurance Corporation of India vs. Sanjeev Builders Private Limited and Another 2022 SCC Online SC 1128.**

10. Moreover, this Court, after examining proviso to Order VI Rule 2 CPC has held that formal amendments should be allowed liberally, particularly when this would help the court in adjudicating the case in a proper manner. In CR-5151-2019 titled as '**Shri Sanatan Dharam Sabha (Registered) Gaushala Bazar Hoshiarpur vs. Sita Devi**' decided on 13.02.2020, it was held as under:-

“Still further, the Courts while deciding the application seeking amendment of the applications must first analyze as to whether strict rules of procedure as provided under the Code of Civil Procedure are applicable or not. Thereafter, the Courts must proceed to examine as to whether the amendment being sought is clarificatory, descriptive or is to remove formal defects. The amendment sought for, can be also to correct typographical error. There can be applications for amendment to incorporate/add subsequent developments. The Rent Controllers would also examine that whether fresh petition is maintainable or not. The Courts must also take into consideration the cases where necessary ingredients as provided in Section 13 are sought to be added by amending the pleadings. Such amendments are to help the Courts in adjudicating the case properly. Such amendments are only to advance the cause of justice. Rules of Procedure have been devised to advance the

cause of justice and not to scuttle it. With these objectives in mind, the Courts must proceed to decide the application filed for amendment of the pleadings. There can be cases of rectification of factual error which was not in the knowledge of the applicant or there is some patent mistake in the application or the reply.”

11. In view of the aforesaid discussion, the impugned order is not sustainable. Hence, the same is set aside. The application filed by the plaintiff with permission to amend the plaint is allowed. Respondent shall have liberty to file the amended plaint. Thereafter, the trial court will proceed with the matter.

12. The revision petition stands allowed.

13. All the pending miscellaneous applications, if any, are also disposed of.

02.05.2024

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)

JUDGE