IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

131

CR-3179-2022 (O&M)
Date of decision: 13.05.2024

RAMANDEEP SINGH

..Petitioner

Versus

AVTAR SINGH

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Amit Kumar Saini, Advocate
for the petitioner.

None for respondent.

ANIL KSHETARPAL, J(Oral)

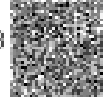
1. Despite receipt of notice, the respondent has not entered appearance.
2. On 13.03.2024, the following order was passed:-

“Heard the learned counsel representing the petitioner at some length.

In this case, the petitioner filed a suit for the grant of decree of permanent injunction on 11.09.2020 on the basis of the agreement to sell dated 01.08.2017. As per the agreement to sell, the sale deed was to be executed on 30.05.2018. During the pendency of the suit, the plaintiff filed an application on 21.01.2021 for permission to amend the plaint, in order to seek the relief of specific performance of the agreement to sell. The learned counsel representing the petitioner contends that the application for permission to amend the plaint was filed within the period of limitation and hence, the court has erred in dismissing the same.

This Court has called upon the learned counsel representing the petitioner to assist the Court with reference to Order II Rule 2 of the Code of Civil Procedure, 1908, particularly when the plaintiff filed the suit for the grant of permanent injunction after 30.05.2018, the date agreed for the execution of the sale deed. Confronted with this situation, he prays for a short accommodation.

List on 08.04.2024, in the urgent list.”



3. The learned counsel representing the petitioner while referring to the judgments passed by this Court in **Parvinder Singh @ Pinda and others Vs. Didar Singh, 2018(3) PLR 699** and **Pritpal Singh and others Vs. Harmesh Kumar, 2014(2) PLR 613**, contends that application for permission to amend the plaint could not be dismissed under Order II Rule 2 of the Code of Civil Procedure, 1908 (hereinafter referred to as the “CPC”) because it would not be applicable at this stage. He submits that objection with regard to Order II Rule 2 of the CPC would come into operation in the subsequent suit.

4. This Court has considered the submissions of the learned counsel representing the petitioner.

5. The aforesaid issue is debatable. In this case, the trial Court has not dismissed the application for permission to amend the plaint on the ground that the same is not maintainable under Order II Rule 2 of the CPC.

6. A perusal of the order shows that the application has been dismissed on the ground that as the trial of the suit has commenced and amendment would result in changing the nature of the suit.

7. In the considered opinion of the Court, both the reasons recorded by the trial Court are erroneous. The proviso to Order VI Rule 17 of the CPC only prohibits amendment of the pleadings where the facts were known to the plaintiff and he failed to show due diligence. The prayer for amendment of the plaint to seek additional relief which arises from the same facts should be allowed liberally. The plaintiff filed the suit on 11.09.2020, whereas, the sale deed was to be executed on 30.05.2018. The application for permission to amend the plaint was filed on 21.01.2021, which is within the period of limitation. The fundamental of the suit are not sought to be



changed. The plaintiff only wants an additional prayer on the basis of the facts already pleaded in the plaint.

8. Keeping in view the aforesaid facts, the revision petition is allowed. However, it shall be open to the defendants to request the trial Court to frame distinct issue on the legal objections, if any.

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

May 13th, 2024
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(ANIL KSHETARPAL)
JUDGE

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