



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CR-4784-2024 (O&M)
Date of Decision : 28.08.2024

Harbans SinghPetitioner

VERSUS

Karam SinghRespondent

CORAM : HON’BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Eklavya Gupta, Advocate for the petitioner.

ALKA SARIN, J. (Oral)

1. Present revision petition has been filed challenging the order dated 11.07.2024 whereby the application filed by the defendant-petitioner herein to delete certain facts in the affidavit filed by the plaintiff-respondent in his examination-in-chief being beyond pleadings, has been dismissed.
2. Brief facts relevant to the present *lis* are that the plaintiff-respondent filed a suit for recovery of Rs.38,10,000/- (Rs.30,00,000/- as principal amount alongwith interest of Rs.8,10,000/- @ 9% per annum). An affidavit of Karam Singh, plaintiff-respondent herein, and of Harbhajan Singh were filed in examination-in-chief. An application was filed by the defendant-petitioner under Section 151 of the Code of Civil Procedure, 1908 for directing the plaintiff-respondent to delete certain lines in his examination-in-chief on the ground that certain facts have been stated which were never pleaded by the plaintiff-respondent in his plaint. It was further the case that an application for amendment was filed, which was dismissed right upto this Court, and in the affidavit filed in examination-in-chief those

very averments have been included which were sought to be introduced by way of the amendment. Reply was filed to the said application. Vide the impugned order dated 11.07.2024 the application has been dismissed. Hence, the present revision petition.

3. Learned counsel for the defendant-petitioner would contend that certain amendments were sought to be introduced by way of an application under Order VI Rule 17 CPC which stood dismissed right upto this Court. In the affidavit filed in examination-in-chief the averments, which were not permitted to be introduced by way of amendment, have been stated.

4. Heard.

5. In the present case the application filed is for deleting certain lines from the affidavit filed in examination-in-chief. There is no provision in law for deleting or scoring out part of the evidence already led by way of affidavit in examination-in-chief. The argument of learned counsel for the defendant-petitioner that certain statements have been made in the affidavit filed in examination-in-chief which are beyond the pleadings and hence the said lines should be deleted, deserves to be rejected on the ground that that it is a settled proposition of law that no amount of evidence can be looked into in the absence of pleadings. Admittedly, the cross-examination is yet to be conducted. The objection, if any, can be raised before the Court at the time of cross-examination which would be dealt with by the Court in accordance with law. The Trial Court while disposing of the application has held as under:

“.....Apparently, no prejudice is going to be caused to defendant, who will definitely get due opportunity to cross examine the witnesses of the plaintiff. Still, in case of any other objection, the defendant can always put forward his request regarding the same during the course of cross examination. Needless to say, any contradiction in evidence as compared to the pleadings of the party can always be brought on record during the cross-examination, which is an art and requires only basic colours for portraying the picture concerned.”

6. In view of the above, I do not find any merit in the present revision petition. The same being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

28.08.2024
jk

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO