



CR-6888-2024

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(123)

CR-6888-2024

Date of Decision: - 27.11.2024

Gurnam Singh (now deceased) through his Legal Representative

....Petitioner

Versus

Gurpreet Singh and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Ms. Tuneet Walia, Advocate,
for the petitioner.

VIKAS BAHL, J. (ORAL)

1. Present revision petition has been filed under Article 227 of the Constitution of India for setting aside the impugned order dated 16.09.2024 (Annexure P-1) passed by the Additional Civil Judge (Senior Division), Baba Bakala Sahib, District Amritsar, vide which an application under Order 6 Rule 17 of CPC filed by the petitioner has been dismissed.

2. Learned counsel for the petitioner has submitted that the petitioner wishes to add the following lines after paragraph 5 of the preliminary objections: -

“and at that time the plaintiff requested Gurnam Singh to issue the said cheques without name and he will himself fill the name and as such the cheques were issued without name of drawee.



CR-6888-2024

-2-

That later the plaintiff filled the name of Navneet Singh Sohal and handed over the said cheques to him who got encashed the said cheques.”

Learned counsel for the petitioner has further submitted that at the time of filing of the written statement the said plea could not be taken although the plea with respect to forgery in the body of the cheque has already been taken. It is stated that the abovesaid plea would help in fully and properly adjudicating the matter. It is further submitted that the application being meritorious, deserves to be allowed and the impugned order, vide which the the said application has been dismissed, deserves to be set aside.

3. This Court has heard learned counsel for the petitioner and has perused the paper-book and is of the opinion that the order dated 16.09.2024 passed by the Additional Civil Judge (Sr. Division), Baba Bakala Sahib, District Amritsar is in accordance with law and deserves to be upheld, for the reasons which are detailed herein after.

4. The respondent No.1-plaintiff had filed a suit for recovery of Rs.3,00,000/- as principal amount and interest @ 18% from 23.09.2017. It was the case of the respondent No.1-plaintiff in the plaint that Gurnam Singh/defendant had taken a friendly loan of Rs.3,00,000/- for his household needs and the said amount was advanced in the presence of Hardeep Singh and Jaspreet Singh and as per the settlement dated 23.09.2017, the defendant had subsequently issued a cheque, which was duly signed by the defendant and was drawn on State Bank of India for an

**CR-6888-2024****-3-**

amount of Rs.3,00,000/-. It was averred that however the said cheque was dishonored with the remark 'insufficient funds' and thus, the respondent No.1-plaintiff, apart from initiating proceedings under Section 138 of the Negotiable Instrument Act, has filed the present suit for recovery.

5. Written statement was filed by the defendant through his LR and in the said written statement, detailed pleas with respect to the facts that the defendant had gone to the house of the plaintiff alongwith the cheque book and that thereafter the said defendant had gone to the Union Bank but had forgotten had his bag in which the cheque was lying, at the house of the plaintiff and thereafter, on learning about the said fact, he got the bag recovered from the house of the plaintiff and ultimately learnt that the plaintiff had stolen 15 cheques from the cheque book of Gurnam Singh were taken. A further plea taken in the said written statement was that the cheque in question was prepared for an amount of Rs.3,00,000/- by forging the body of the cheque.

6. As is apparent from the impugned order, the issues have been framed and all the plaintiff witnesses have been examined and cross-examined at length and the case is now at the stage of defendant evidence, which facts have not been disputed before this Court. It is at this stage after the trial has commenced that the present application dated 21.03.2024 (Annexure P-4) has been moved under Order 6 Rule 17 CPC for carrying out the amendment which has been highlighted in the earlier part of the present order. The said application has been apparently moved only to delay the proceedings as the present suit has been filed by the

**CR-6888-2024****-4-**

plaintiff for recovery. It cannot even remotely be stated that the plea which is now sought to be incorporated was not in the knowledge of the LR of the defendant, who had filed the written statement and had given details as to what had conspired on the date when the cheque was allegedly stolen, as per the case of the defendant. A perusal of the original written statement, more so para 5 of the preliminary objections, clearly shows that the facts as per the stand of the defendant had been detailed therein. A perusal of the provisions of Order 6 Rule 17 CPC, more so the proviso, would show that it is mandated that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial. In the present case, the trial Court has rightly come to the conclusion that the petitioner has not acted diligently and the present application has been filed with the sole objective to delay the proceedings.

7. Keeping in view the above-said facts and circumstances, this Court is of the view that the impugned order has been correctly passed and deserves to be upheld and the revision petition filed by the petitioner being meritless deserves to be dismissed and is accordingly dismissed.

November 27, 2024
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes
Yes