



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

244

CR-5266-2024 (O&M)
Decided on:14.07.2025

Ravinder Singh

. . . Petitioner

Versus

Manjit Kaur and others

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. N. S. Dadwal, Advocate
for the petitioner.

Mr. Mudit Johar, Advocate
for respondent No.1.

VIKAS BAHL, J.(ORAL)

1. The present Civil Revision Petition has been filed under Article 227 of the Constitution of India for setting aside the impugned order dated 13.08.2024 (Annexure P-1) passed by the Civil Judge (Jr. Divn.), Jagraon whereby an application dated 09.02.2023 filed under Order 6 Rule 17 read with Section 151 CPC for amendment of the written statement has been dismissed.

2. Learned counsel for the petitioner has submitted that at the time of filing of the written statement, the Memorandum dated 23.08.2018 executed by defendant No.2 in favour of the present petitioner/defendant No.1 was handed over by him to his counsel, however, the factum with respect to the said memorandum dated 23.08.2018 had not been mentioned in the written statement, which was filed on 16.11.2018. It is



submitted that after the change of counsel, the petitioner had filed the application dated 09.02.2023 for carrying out the amendment so as to incorporate the fact with respect to the memorandum dated 23.08.2018. It is further submitted that the said application for amendment has been dismissed by the trial Court and the said order is illegal and deserves to be set aside and the application filed by the petitioner deserves to be allowed.

3. Learned counsel for respondent No.1, who is the only contesting respondent as he is the sole plaintiff, has argued that the trial Court has rightly dismissed the application for amendment and the amendment sought is hit by the proviso to Order 6 Rule 17 CPC, inasmuch as, the suit in the present case was filed on 20.10.2018 and the written statement in the same was filed by the petitioner alongwith other defendants on 16.11.2018 and the issues were framed on 28.02.2019 whereas the alleged memorandum to which the petitioner was a signatory was dated 23.08.2018 i.e. prior to the filing of the suit. It is further submitted that the application had been filed on 09.02.2023 i.e. after a delay of more than 4 years from the filing of the written statement dated 16.11.2018. It is submitted that the same has been filed only to delay the proceedings and the memorandum is not a necessary document and is not binding on the plaintiff, as the plaintiff is not a party to the same.

4. This Court has heard learned counsel for the parties and has perused the paperbook and finds that the impugned order has been rightly passed and deserves to be upheld and the present revision petition being meritless, deserves to be dismissed for the reasons detailed hereinafter.



5. It is not in dispute that respondent No.1-plaintiff had filed the suit for permanent injunction on 20.10.2018 for restraining the present petitioner and other defendants from demolishing the gate installed by the plaintiff for her personal use to use the way shown as red in the site plan. A written statement was filed to the said suit on 16.11.2018 by the petitioner and other defendants. No plea with respect to any alleged memorandum dated 23.08.2018 executed between defendant Nos.1 and 2 was made in the said written statement. Admittedly, issues were framed in the present case on 28.02.2019. It is after a delay of 4 years from the filing of the written statement that the present application dated 09.02.2023 under Order 6 Rule 17 CPC for amendment of the written statement was filed.

6. No valid reason has been given as to why the factum with respect to the alleged memorandum dated 23.08.2018 was not mentioned in the original written statement, when it is the case of the petitioner that defendant No.1/petitioner was a signatory to the said memorandum.

7. The trial Court vide order dated 13.08.2024 had dismissed the application under Order 6 Rule 17 CPC by observing that the petitioner had failed to satisfy the Court as to why the said amendment was not sought at an earlier stage and that it was not his case that the said fact was not in the knowledge of petitioner/defendant No.1 at the time of filing of the written statement. The said order thus is in accordance with law and deserves to be upheld.



8. A perusal of the Order 6 Rule 17 CPC would show that as per the proviso, no application for amendment is to be allowed after the trial has commenced, unless the Court comes to the conclusion that despite due diligence the parties could not have raised the matter before the commencement of the trial. In the present case, it is not in dispute that the trial commenced on framing of issues on 28.02.2019. The original written statement dated 16.11.2018 had been signed by the petitioner and it is the case of the petitioner that he was aware of the alleged memorandum dated 23.08.2018, which is a document executed prior to the filing of the suit and much prior to the filing of the written statement and thus, the petitioner was apparently negligent while signing the written statement or it could be that the petitioner is now trying to improve his case by introducing the memorandum dated 23.08.2018. It is also relevant to note that the alleged memorandum dated 23.08.2018 is not signed by the plaintiff. In the said circumstances, it cannot be said that the petitioner acted with due diligence.

9. The Hon'ble Supreme Court in the case of "Shalini Shyam Shetty and another Vs. Rajendra Shankar Patil", reported as (2010) 8 Supreme Court Cases 329, had observed that the High Courts cannot, at the drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or courts inferior to it. Nor can it, in exercise of this power, act as a court of appeal over the orders of court or tribunal subordinate to it. It was also observed in the said judgment that a statutory amendment with respect to Section



115 of the Civil Procedure Code does not and cannot cut down the ambit of High Court's power under Article 227 but at the same time, it must be remembered that such statutory amendment does not correspondingly expand the High Court's jurisdiction of superintendence under Article 227. The power of interference under this Article is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the tribunals and courts subordinate to the High Court. It was also observed that the power under Article 227 may be unfettered but its exercise is subject to high degree of judicial discipline.

10. Keeping in view the above, this Court is of the opinion that the impugned order does not call for any interference by this Court while exercising its powers under Article 227 of the Constitution of India and accordingly, the impugned order is upheld and the present revision petition being meritless, deserves to be dismissed and is dismissed.

11. Pending miscellaneous applications, if any, shall stand disposed of with the abovesaid order.

14.07.2025
Mehak

Whether reasoned/speaking?
Whether reportable?

(VIKAS BAHL)
JUDGE

Yes/No
Yes/No