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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-7495-2024
Date of decision: 18.03.2025

Devinder Singh

...Petitioner

Versus

M.L. Gram Udyog Samiti Regd.

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Sandeep Kumar Bokolia, Advocate for the petitioner.

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VIKAS BAHL, J. (ORAL)

1. This is a revision petition filed under Article 227 of the Constitution of India for setting aside the impugned order dated 18.11.2024 (Annexure P-1) passed by the Additional District Judge, Faridkot, vide which an application filed by the petitioner/defendant under Order 6 Rule 17 CPC read with Section 151 CPC for amendment of the written statement has been dismissed.

2. Learned counsel for the petitioner has submitted that by virtue of the amendment, the petitioner wants to take the plea to the effect that since there are seven persons who are members of the respondent-plaintiff-Samiti thus, it is a partnership firm but the same has not been registered under the Indian Partnership Act and thus, cannot maintain a suit. It is submitted that the said amendment was being sought at the appellate stage

and the First Appellate Court had vide order dated 18.11.2024, wrongly dismissed the said application and the impugned order deserves to be set aside and the application filed by the petitioner being meritorious, deserves to be allowed.

3. This Court has heard learned counsel for the petitioner and has perused the paper book and finds that impugned order is in accordance with law and deserves to be upheld and the revision petition being meritless, deserves to be dismissed for the reasons stated hereinafter.

4. The application for amendment filed under Order 6 Rule 17 CPC by the petitioner at the appellate stage deserves to be dismissed on several accounts, first of which being lack of due diligence. It would be relevant to note that the respondent-Samiti had on 16.02.2017 filed a suit (Annexure P-2) for recovery of Rs.20,43,600/- along with the interest against the present petitioner and in the said suit, had stated that the respondent-Samiti was duly registered with the office of Registrar of Firms and Societies, Punjab and consisted of seven members, names of which were specifically mentioned in para 2 of the plaint. The detailed averments with respect to the basis on which the respondent-Samiti was seeking recovery were given in the plaint. A written statement was filed by the petitioner in the year 2019 and the same has been annexed as Annexure P-3 along with the present revision petition. Vide judgment and decree dated 29.08.2022 (Annexure P-4), the suit of the respondent-plaintiff was decreed and the respondent-plaintiff was held entitled to recovery of an amount of Rs.20,43,600/- along with pendente lite interest at the rate of 9% per annum and future interest at the rate of 6% per annum till the time the entire

payment was made.

5. The petitioner filed an appeal against the said judgment and decree on 26.09.2022 (Annexure P-5). After the appeal was pending for more than four months, the present application under Order 6 Rule 17 CPC read with Section 151 CPC for amendment of the written statement before the First Appellate Court was filed on the plea that since the plaintiff-Samiti is a body consisting of seven members thus, the same was a partnership and required registration under the Indian Partnership Act. The case at that stage was fixed for arguments. In para 3 of the application, it was stated that when the counsel was preparing for arguments, he learnt that since there were seven persons shown as members thus, they would be partners and the firm would be a partnership firm.

6. The basis, thus, for filing the application is apparently that there were seven persons who were shown as members and were stated to be the partners by the petitioner. Apart from the fact that the said plea is absolutely baseless, it would be relevant to note that in para 2 of the plaint, the names of the said members were duly mentioned and thus, the petitioner/defendant was aware of the fact that all the said persons were the members, at the time of filing the original written statement and yet no plea, as is sought to be taken now at the appellate stage, was taken. In the present case, the trial has not only commenced but has also concluded by passing of the judgment and decree dated 29.08.2022 and even appeal has been filed in the year 2022 whereas the present application for amendment has been filed in the year 2023, which is apparently done only to delay the proceedings, and the same is hit by the proviso to Order 6 Rule 17 CPC as it cannot even

remotely be said that the petitioner had filed the application under Order 6 Rule 17 CPC with due diligence.

7. Moreover, the Appellate Court, vide order dated 18.11.2024, had observed that even the alleged plea sought to be raised in the proposed amendment by the petitioner with respect to the bar to the suit, in view of the provisions of the Indian Partnership Act was meritless, inasmuch as, the respondent-plaintiff had specifically averred that the respondent-plaintiff was a Samiti registered under the Society Registration Act in the office of Registrar of Firms and Societies, Punjab, Chandigarh and had also produced the certificate of registration before the trial Court. There is nothing to suggest that it is a partnership firm and thus, the question of bar under the Partnership Act does not arise. The said order has not been shown to be perverse or illegal or against law. The application for amendment is apparently made only to delay the proceedings.

8. Keeping in view the abovesaid facts and circumstances, the impugned order is in accordance with law and deserves to be upheld and the present revision petition being meritless, deserves to be dismissed and is accordingly, dismissed.

18.03.2025 **(VIKAS BAHL)**
Pawan **JUDGE**

Whether speaking/reasoned:- **Yes/No**

Whether reportable:- **Yes/No**