

Shambhu Dayal Vs Shri Nand Lal and others

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Feb. 21, 1989

Hon'ble Judges: J.V. Gupta, J

Bench: Single Bench

Advocate: P.S. Saini and Mr. J.S. Virk, for the Appellant; D.R. Mahajan, for the Respondent

Final Decision: Dismissed

Judgement

J.V. Gupta, J.

This petition is directed against the order of the trial court dated 7.1.1988, whereby the application for amendment of the written statement was allowed.

2. Civil Suit was filed on 8 12 1979 whereas the written statement was filed by Mohinder Singh Defendant on 11-2-1980 The present application

for amendment of the written statement was filed on 23-12-1987 alleging that the Plaintiff took the plot in dispute from Lajja Dass on rent and the

said plot is part of Rectangle No. 70, Killa No. 35/1-37/2. The said Lajja Dass had filed a suit for possession which was dismissed on 16-1-

1974. Thus he sought amendment to the fact that the suit land is part of Rectangle No. 70. The application was resisted on the ground that the

same has been filed mala fide and the Defendant wants to take contradictory pleas and as such should not be allowed. The allegations made in the

application were denied to be false and baseless. The trial Court allowed the said amendment with the observations:

The applicant has filed the above application after a lapse of seven years after filing the original written statement. This shows negligent on his part

but the amendment of the written statement is very liberal which can be allowed even at the appellate stage. The rules and procedures have been

made to impart justice. By proposed amendment the applicant may establish the existence of the suit land with regard to the Killa No. 17 as

alleged and which may help the Court in adjudicating upon the matter effectively.

Consequently, the amendment was allowed on payment of Rs. 200/-as costs.

3. The learned Counsel for the Petitioner submitted that the very fact that the Defendant was negligent and the application for amendment was filed

after seven years and no explanation was given therein as to why the amendment was being sought after such a long time, the application should

have been dismissed on this ground. Moreover, argued the learned Counsel, no reasons have been given by the trial Court for allowing the

amendment and therefore, the trial Court has acted illegally and with material irregularity in the exercise of its jurisdiction.

4. After hearing the counsel for the parties I find merit in this petition. After holding that the Defendant was negligent on his part, the trial Court

should not have allowed the amendment, particularly without giving any cogent reasons. Nobody is entitled to the amendment of the pleadings as a

matter of right. Delay is a factor to be explained by the party seeking any amendment. If the Court is satisfied then in a given case the amendment

may be allowed but not otherwise. In the present case, nothing was stated in the application seeking amendment nor there was any cogent reason

for allowing the amendment sought for. The suit is pending for the last ten years and the whole effort on the part of the Defendant appears to be to

delay the proceedings on one reason or the other. Consequently, this petition succeeds, the impugned order is set aside and the application for

amendment is dismissed with costs.

5. At the time of motion hearing, it was directed that the proceedings shall go on but final decision shall not be taken till further orders In case the

Defendants are to lead any evidence, they will produce the same at their own responsibility and only one opportunity will be given to each party for

the said purpose.