

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.6199 of 2007 (O&M)
DATE OF DECISION: 30.11.2009

Surjit Singh and another Petitioner
VS.

Lachhman Singh Respondent

CORAM : HON'BLE MR.JUSTICE SURYA KANT

- 1. Whether Reporters of local papers may be allowed to see the judgment?**
- 2. To be referred to the Reporters or not?**
- 3. Whether the judgment should be reported in the Digest?**

Present: Mr. Dilraj Brar, Advocate for the petitioner
Mr. P.S. Brar, Advocate for the respondent

SURYA KANT J.(ORAL)

- (1). This revision petition is directed against the order dated 08.08.2007 passed by the learned Additional District Judge, Faridkot, whereby, on an application under Order 6 Rule 17 CPC, respondent No.1 (Lachman Singh) has been permitted to amend the "counter-claim" and convert the same into "cross-objections".
- (2). The grievance of the petitioner is that respondent No.1 (Lachman Singh) is a co-respondent with him in the appeal and, therefore, is not competent to file any "cross-objections" against the findings returned on Issue No.3 by the Civil Court. According to the petitioner, respondent No.1 ought to have preferred a separate appeal, if he was aggrieved at those findings. It is also urged that while allowing the amendment, the learned Additional District

Judge, Faridkot has failed to take notice of the fact that the “counter-claim-cum-cross-objections” filed by the First respondent are time-barred under Rule 22 of Order 41 CPC.

(3). Having heard learned counsel for the parties at some length, I am of the considered opinion that respondent No.1, namely, Lachman Singh, being one of the respondents in the First Appeal, is entitled to submit “cross-objections” under Rule 22 of Order 41 CPC and a mere erroneous nomenclature of “counter-claim” cannot deprive him of his right to submit cross-objections against the findings returned by the Civil Court in respect of an issue. The impugned order to the extent of permitting respondent No.1 to amend the nomenclature and convert his “counter-claim” into “cross-objections”, therefore, warrants no interference in this Court.

(4). As regards the question as to whether the “cross-objections” have been filed by the respondent No.1 within limitation and/or he has made out a case for entertainment of such “objections” even after expiry of one month period from the date of service upon him, is kept open and shall be dealt with by the learned First Appellate Court at the time of final hearing. In this regard, the parties shall be at liberty to address the First Appellate Court again.

(5). Disposed of.

(6). Dasti.

(SURYA KANT)
JUDGE

30.11.2009
vishal shonkar