

ITEM NO.18

COURT NO.11

SECTION IVB

S U P R E M E                      C O U R T   O F   I N D I A  
R E C O R D   O F   P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No(s).28270/2010

(From the judgement and order dated 06/07/2010 in CR No. 2695/2010  
of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

M/S. SUN RAJ SOFTWARE PRIVATE LTD.

Petitioner(s)

VERSUS

SHIV DAYAL &amp; ANR.

Respondent(s)

(With prayer for interim relief and office report)

Date: 22/10/2010                      This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI

HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s)                      Mr. Dinesh Kumar Garg, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following  
O R D E R

This petition is directed against the order passed by the learned Single Judge of the Punjab and Haryana High Court dismissing the civil revision filed by the petitioner against the order of the trial Court, which declined to grant leave to the petitioner to amend the written statement.

Respondent No.2 filed suit for declaration and possession by asserting that he had never appointed Respondent No.1 as his General Power of Attorney and had not authorised him to sell his share in the land. The same was registered as case No.141/VP/14.5.2002 and is pending in the Court of Civil Judge, Senior Division, Gurgaon.

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The petitioner and Respondent No.1 jointly filed an application under Order 6 Rule 17 read with Section 151 of the Code of Civil Procedure for amendment of the written statement so as to enable them to lodge counter claim and seek specific performance of the agreement for sale. The trial Court dismissed the amendment application on the ground of delay and also on the ground that the amendment was not necessary for determination of the real question

in controversy. In the opinion of the trial Court, the relief of specific performance had become time barred and such relief cannot be granted by allowing amendment of the written statement.

The learned Single Judge referred to the amended Order VI Rule 17 CPC and held that the trial Court did not commit any error by refusing permission to the defendants to amend the written statement. The learned Single Judge also referred to Order 8 Rule 6 CPC and held that the counter claim cannot be entertained because the same had become time barred.

We have heard Mr.Dinesh Kumar Garg, learned counsel for the petitioner.

In our view, the orders passed by the trial Court and the learned Single Judge of the High Court do not suffer from any legal infirmity warranting interference under Article 136 of the Constitution.

The special leave petition is accordingly dismissed.

( Satish K.Yadav )  
Court Master

( Phoolan Wati Arora )  
Court Master