

In the High Court of Punjab and Haryana at Chandigarh

**Civil Revision No. 14 of 2013 (O&M)
Date of Decision: 12.5.2015.**

Dr. Ashok Goyal

.....Petitioner

Versus

Arya Mitter and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Bhag Singh, Advocate
for the petitioner.

None for respondent No. 2.

Mr. B.S.Dhillon, Advocate
for respondent No. 3.

SABINA, J.

Petitioner has filed this petition under Article 227 of the Constitution of India challenging the order dated 12.12.2012 whereby application moved by the petitioner for permission to amend the plaint, was dismissed.

I have heard the learned counsel for the parties and have gone through the record available on the file carefully.

Petitioner had filed suit for declaration and permanent injunction. Suit filed by the petitioner was dismissed by the Trial Court vide judgment/decreed dated 23.11.2009. Aggrieved against the said judgment and decree, petitioner preferred an appeal. During the pendency of the appeal, petitioner moved an application for permission to amend the plaint. The case of the petitioner was that due to inadvertence, in the prayer clause, the petitioner could

not mention the word “*ownership*” after the words “*along with a decree for*” and prior to the words “*possession to the extent*”. The learned First Appellate Court rightly dismissed the application moved by the petitioner for permission to amend the plaint as the petitioner could not be permitted to fill up the lacuna in his case by way of amendment. Suit filed by the petitioner had remained pending from March 2001 to 23.11.2009 but during the said period, petitioner had failed to seek the necessary relief. Hence, petitioner had not acted with due diligence.

In the facts and circumstances of the present case, the application moved by the petitioner has been rightly dismissed by the learned First Appellate Court.

No ground for interference by this Court is made out.

Dismissed.

**(SABINA)
JUDGE**

May 12, 2015
Gurpreet