

In the High Court of Punjab and Haryana at Chandigarh

CR No. 1615 of 2015

Date of decision: 09.03.2015

Bikram Batta

.....Petitioner

Versus

Anoop Khullar and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr.Kanwal Goyal,Advocate
for the petitioner.

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SABINA, J

Petitioner has filed this petition challenging the order dated 30.10.2014 (Annexure P1) whereby the application moved by the petitioner for amendment of written statement, was dismissed.

Learned counsel for the petitioner has submitted that the amendment sought by the petitioner was very necessary and in case, petitioner is not allowed to amend the written statement, he will suffer an irreparable loss. Amendment sought by the petitioner was supported by the documents already available on the record.

Order 6 Rule 17 of the Code of Civil Procedure, 1908 ('CPC' for short) reads as under:-

“17. Amendment of Pleadings.- the Court may at any stage at the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just,

and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties:

Provided that no application for amendment shall be allowed after the trial has commenced, unless the court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.”

In view of the above provision, the Court has ample power to allow any party to amend its pleadings before the commencement of the trial. However, once the trial has commenced, the Court can not allow the party to amend its pleadings provided the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.

In the present case, respondent No.1 had filed suit for specific performance of an agreement to sell dated 20.7.2009. Petitioner filed his written statement. Earlier petitioner had sought amendment of the written statement and the same was allowed vide order dated 26.9.2012. Thereafter, issues were framed by the trial Court on 8.9.2013. Two witnesses had tendered their affidavits in their examination-in-chief.

In the present case, petitioner had earlier also sought amendment of the written statement and the same was allowed. The pleas now sought to be taken by the petitioner were available to him at the time of earlier application filed by him for amendment of written statement. Hence, the trial Court rightly ordered the dismissal of the

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application filed by the petitioner under Order 6 Rule 17 CPC

Dismissed.

**(SABINA)
JUDGE**

March 09,2015
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