

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CR No.1740 of 2015 (O&M)
Decided on: March 20, 2015.**

Krishan Lal

.... Petitioner

Versus

Sushil Kumar and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. Gurmail Singh Duhan, Advocate,
for the petitioner.

M.M.S. BEDI, J (ORAL)

This is defendant's revision petition against the order dated 27.02.2015 passed by Civil Judge (Jr. Division), Kaithal allowing the application under Order 6 Rule 17 CPC filed by the plaintiffs-respondents for amendment of the plaint.

Learned counsel for the petitioner submits that amendments have been allowed at the stage when the case was at final arguments stage. He has referred to the provision of Order 6 Rule 17 CPC to contend that lack of due diligence or typographical mistake/error should not be made a ground to allow the amendment at belated stage. He also places reliance on judgments of Supreme Court in **J. Samuel Vs. Gattu Mahesh, AIR 2012 (1) RCR (Civil) 903, Raj Kumar Gurawara Vs. M/s S.K. Sarwagi and another 2008 (4) RCR (Civil) 824** and **Vidyabai and others Vs. Padmalatha and another 2009 (10 RCR (Civil) 763.** On the basis of said judgments, it has been vehemently argued that the amendment can be allowed only before

commencement of the trial but not after the commencement thereof.

I have considered the facts and circumstances of the case and the ratio of the judgments cited. In the present case the amendments which have been permitted to be incorporated in the plaint are concerning the details of previous litigation pending between the plaintiffs-respondents with the tenant-petitioner Krishan Lal. The respondents-plaintiffs had also entered into similar litigation with another person Parveen Kumar by filing separate suit which was decided by the High Court in RSA. The plaintiffs-respondents inadvertently mentioned the title of case Mahavir Saran and others Vs. Parvinder Kumar in his plaint filed on the same day against the petitioner as well as against Parvinder Kumar. The particulars of litigation of case Mahavir Saran and others Vs. Parvinder Kumar have been pleaded in both the plaints. The said typographical mistake/error has been permitted to be corrected in the plaint by allowing the amendments.

Learned counsel for the petitioner submits that the delay in moving of the application should have been a reason for dismissing the application for amendment.

After considering the facts and circumstances of the case, I am of the opinion that the factum of earlier litigation in two separate cases by plaintiffs-respondents is an admitted fact and having been inadvertently mentioned, has been permitted to be corrected in the plaint. The provisions of Order 6 Rule 17 CPC permit a Court at any stage of the proceedings to allow either party to the litigation to amend the pleadings if it is necessary for determining the real question in controversy between the parties. No doubt, an application for amendment cannot be allowed after commencement of the trial. I have seen the written statement of the

defendant-petitioner. It was required from the petitioner also to furnish correct particulars of the earlier litigation. The defendant-petitioner had given actual particulars of the earlier litigation.

In view of the above circumstances, I am of the opinion that when a true fact is permitted to be taken in pleadings at any stage, the proviso to Order 6 Rule 17 CPC will not debar the amendment. The amendments appear to be in consonance with the pleas taken by the defendant-petitioner himself.

No ground is made out for interference.

Dismissed.

(M.M.S. BEDI)
JUDGE

March 20, 2015
harsha