

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

CR No. 1657 of 2014 (O&M)
Date of decision: July 27, 2015

Gurdev Kaur

...Petitioner

Versus

Avtar Chand

...Respondent

CORAM:- HON'BLE MR. JUSTICE K. KANNAN

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. SS Hira, Advocate,
for the petitioner.

Mr. Nadeep Monga, Advocate,
for the respondent.

K. KANNAN, J. (Oral)

1. After the commencement of the trial, the defendant, who has denied the agreement for specific performance, has sought to bring an amended plea that the present plaintiff is only a servant of one Pardeep Bedi, who is a financier and who had taken several signatures on blank papers at the time when the petitioner's husband offered guarantee for one Ranjit Singh. The court declined to entertain the amendment application.

2. There needs to be some discipline at the trial the way amended provisions of Order 6 Rule 17 CPC require; that amendments are brought only in respect of matters which inspite of exercise of due diligence, a person did not know the particular facts pleaded. If the plaintiff who takes notice of the institution of a suit in the year 2008 after collecting the information at the Patwari's office on 19.3.2012 and filed the written

statement on 2.10.2012 denying that there was any agreement executed by the defendant in favour of the plaintiff, she evidently knew that the plaintiff was a stranger. The defendant now wants to contend that the plaintiff is a servant of the financier Pardeep Bedi. I take that to be merely a matter of evidence and not requiring any specific pleadings. Order 6 of the CPC which deals with the pleadings generally set out through Rule 2, the pleadings will state only the material facts and not evidence. The defendant cannot be prejudiced in any way by the fact that the trial court has disallowed the prayer for amendment. There is additional reason why it cannot be allowed. A defendant is bound to confront any situation what is relevant in the cross-examination of the plaintiff and after the cross-examination is completed, the defendant cannot be permitted to bring an amendment so that defendant secures to himself the benefit of any additional occasion for cross-examination. It is essential rule of justice at the trial to confront a witness with every important defence which a person has. If the cross-examination of the plaintiff has been completed, it ought to have been on the basis of the pleadings already there. After it is completed, the defendant cannot again bring a fresh amendment and create a surprise at the trial by bringing a fact which the plaintiff was not confronted with.

3. I find no case for intervention. The revision petition is dismissed.

July 27, 2015
prem

(K.KANNAN)
JUDGE