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

CR No.1971 of 2015

Date of decision: March 20, 2015

Mohinder Singh

.....Petitioner

Versus

Didar Singh and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Amandeep Singh Saini, Advocate
for the petitioner.

SABINA, J

Petitioner has filed this petition challenging the order dated 02.02.2015, whereby application moved by the petitioner to file written statement to amended plaint dated 24.07.2009 and with the further prayer to reject the amended plaint dated 10.09.2010, was dismissed.

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

Respondent No.1 has filed suit for specific performance of agreement to sell dated 02.02.2006 executed by the petitioner. During the pendency of the suit, respondent No.1 moved an application for permission to amend the plaint. Alongwith the said application, amended plaint dated 24.07.2009 was also placed on record. However, the trial Court while allowing the application for permission to amend the plaint vide order dated 23.07.2010, directed the plaintiff-respondent No.1 to file amended plaint. In consequence to the said order, plaintiff filed amended plaint dated 10.09.2010. Copy of the said plaint was supplied to the petitioner and petitioner filed his written statement to the said amended

plaint dated 10.09.2010 on 16.11.2010. In consequence to the amendment sought by the plaintiff, additional issue No.4A was framed by the trial Court. Parties led their evidence in support of their respective pleas. Now the case is listed before the trial Court for rebuttal evidence of the plaintiff, if any and arguments. At this stage, petitioner moved the application in question. Although, the amended plaint had been placed on record by the plaintiff alongwith the application seeking amendment of plaint, but it appears that due to inadvertence, the trial Court fixed the case for filing of the amended plaint after allowing the application filed by the plaintiff seeking amendment of the plaint. Petitioner has filed written statement to the amended plaint, which was filed by the plaintiff on 10.09.2010. Hence, at this stage, when the case was listed for rebuttal evidence of the plaintiff, the learned trial Court rightly held that the application moved by the petitioner was liable to be dismissed as the petitioner had filed written statement to the amended plaint dated 10.09.2010 and could have taken up all the pleas available to him at the time of filing of the written statement.

In these circumstances, no ground for interference by this Court, is made out.

Dismissed.

**(SABINA)
JUDGE**

March 20, 2015
m.singh